RESEARCH REPORT

SANCTIONS AND ORGANIZED CRIME INITIATIVE: 2023 SERIES

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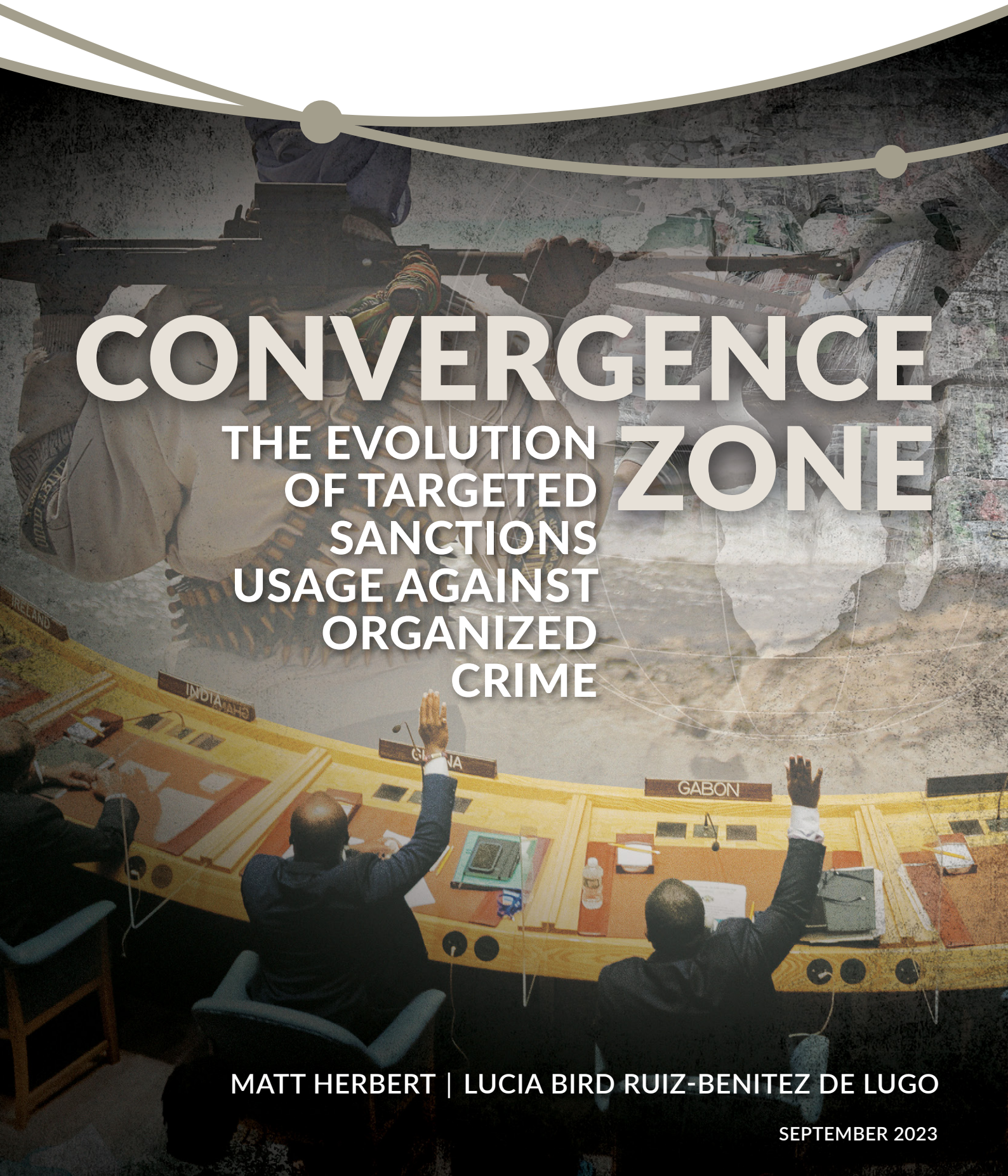

CONVERGENCE ZONE

THE EVOLUTION OF TARGETED SANCTIONS USAGE AGAINST ORGANIZED CRIME

MATT HERBERT | LUCIA BIRD RUIZ-BENITEZ DE LUGO

SEPTEMBER 2023

GLOBAL INITIATIVE
AGAINST TRANSNATIONAL ORGANIZED CRIME

FROM VISION TO ACTION: A DECADE OF ANALYSIS, DISRUPTION AND RESILIENCE

The Global Initiative Against Transnational Organized Crime was founded in 2013. Its vision was to mobilize a global strategic approach to tackling organized crime by strengthening political commitment to address the challenge, building the analytical evidence base on organized crime, disrupting criminal economies and developing networks of resilience in affected communities. Ten years on, the threat of organized crime is greater than ever before and it is critical that we continue to take action by building a coordinated global response to meet the challenge.

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September 2023

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Cover photos: *Michael M. Santiago/Getty Images; Mohamed Dahir/AFP via Getty Images; Orlando Sierra/AFP via Getty Images*

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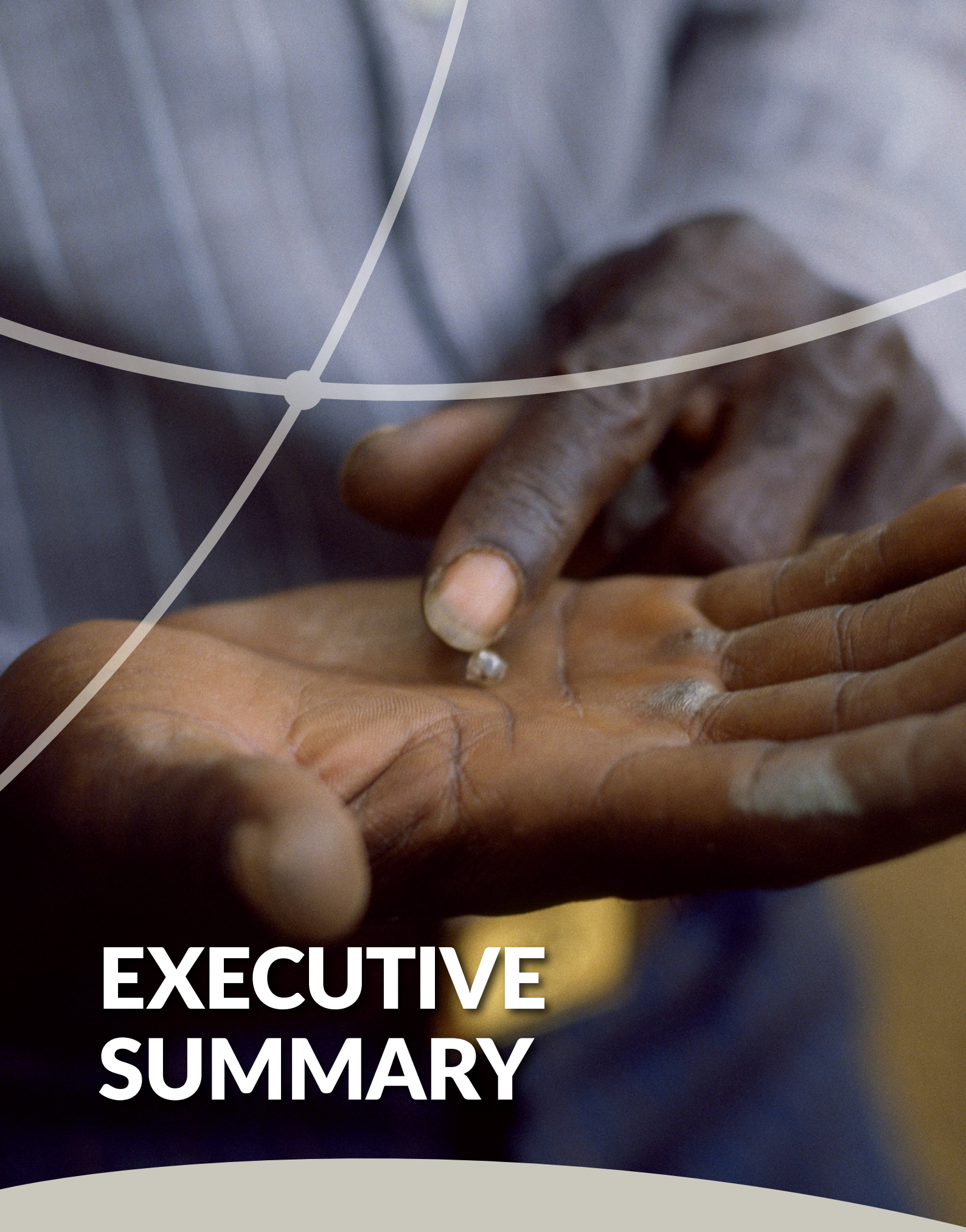
ACRONYMS AND ABBREVIATIONS

CAR	Central African Republic
CFSP	Common Foreign and Security Policy
CJEU	Court of Justice of the European Union
DEA	Drug Enforcement Administration
DRC	Democratic Republic of Congo
EEAS	European External Action Service
EO	executive order
FCDO	Foreign, Commonwealth and Development Office
FISMA	Directorate-General for Financial Stability, Financial Services and Capital Markets Union
OFAC	Office of Foreign Asset Control
OFSI	Office of Financial Sanctions Implementation
PDD	presidential decision directive
RELEX	Working Party of Foreign Relations Counsellors
SAMLA	Sanctions and Anti-Money Laundering Act
SCSOB	Security Council Subsidiary Organs Branch
SDN List	Specially Designated Nationals and Blocked Persons List
UNSCR	United Nations Security Council Resolution
WMD	weapons of mass destruction

A policeman takes part in a raid where a suspected human trafficker was taken into custody, Guatemala City, May 2019.
© John Moore/Getty Images



EXECUTIVE SUMMARY

Close-up of a diamond in Sierra Leone. The rising profitability of organized crime has had a substantial impact in the states in which networks operate. *© José Nicolas/Sygma via Getty Images*

Since the turn of the millennium, organized crime has surged from a small number of locally or regionally active organizations into a plethora of syndicates operating throughout the globe.[1] Their operations are now often transnational, either active in multiple countries or involved with illicit commodity chains that extend across borders and interlink different regions.

Organized crime players are increasingly active in criminal markets, from human trafficking to cybercrime to illicit fuel sales. Although the value of global organized crime activity is unknown – and likely unknowable with any real precision because of its nature – it is huge. Individual markets such as drug trafficking or timber extraction are estimated to generate hundreds of billions of dollars annually.[2]

The rising prevalence and profitability of organized crime have had a substantial impact in many of the states in which networks operate. In part, this is through the corruption and/or coercion of state officials to allow criminal activity or purchasing impunity. Such official complicity is now the most important factor enabling the spread and operations of organized crime and also a key impediment to efforts to design solutions and build resilience to it.[3] Criminal groups have been important sponsors of armed groups seeking to control, in full or in part, the territory of states across the world.[4] Increasingly, organized crime actors have developed autonomous military capacity, becoming key threats to peace and security in their own right.[5] Impacts of organized crime on governance also manifest from the bottom up, with local communities highly vulnerable to criminal actors' attempts to violently seize de facto control, limit access to public services or establish alternative governance structures.[6]

Because of this profusion of impacts, the international community is devoting increasing resources to counter the phenomena of rising organized crime.[7] At a national level, this has seen greater funding of security force and criminal justice actors, an expansion that is mirrored in international aid, with heightened donor focus on security sector reform and governance, judicial sector training and programmes to build binational and multinational coordination on security challenges, including organized crime.

The international community has also sought to build arrangements for multilateral reciprocal cooperation, such as the United Nations Convention against Transnational Organized Crime, also known as the Palermo Convention.[8] However, these have struggled to achieve the necessary effects and are often outpaced by criminal evolution,

leading many states to prefer unilateral or ad hoc initiatives to address transnational organized crime.[9]

Further, many governments are shifting their approach to organized crime, assessing it as a national security threat rather than purely as a criminal justice challenge.[10] The result has been that, while criminal justice tools such as multilateral arrangements continue to be relied upon, other approaches – involving military, financial and diplomatic tools – are becoming increasingly common.

The use of targeted sanctions has emerged as part of this expanding international toolkit to address organized crime. Such sanctions can be defined as legal authorities that prohibit certain forms of otherwise licit activity, including financial access or travel, for a specific entity in order to hamper their pursuit of a specific goal.[11] Historically, they have mostly been used against countries whose activities were interpreted as threats to peace and security or individuals who had breached international law or norms.

Sanctions against criminals, broadly involving asset freezes and/or travel prohibitions, are not new, having been used by the US since the 1990s. Their use has, however, become increasingly common since the mid-2000s, both by states – most prominently, the US – and multilateral entities, including the UN and the EU, to mitigate specific risks related to organized crime. Collectively, this has imposed financial and/or mobility sanctions on several thousand individuals and businesses.

It is important here to draw a distinction between sanctions against actors whose criminal activities exist independently of sanctions regimes and those whose activities are predicated on the violation of a given regime, such as involvement in contravening arms embargoes. The latter activities have long been proscribed, with substantial international attention paid to 'sanctions-busters'.[12] Given the sharp rise in sanctions levied on Russia in the wake of its 2022 invasion of Ukraine, this is an important area of inquiry for those assessing the evolution of organized crime and the commingling of different criminal actors. However, this paper will focus on criminals involved in more broadly proscribed forms of criminality, such as drug trafficking, human smuggling and trafficking, and the illicit exploitation of natural resources.

While the use of sanctions as a tool to address organized crime has risen globally, the rationale and focus that underpins their usage differs by jurisdiction. The US, for example, has developed a number of targeted sanctions regimes predicated on the national security threat posed by organized crime. These often address instances and issues where other criminal justice tools – such as extradition and prosecution – are unavailable or infeasible due to limited partner capacity, complicated bilateral relations or limited trust between states. The UN, in turn, has increasingly sanctioned criminal actors whose activities enable conflict actors or profit from fragile post-conflict situations. The EU has also increasingly targeted criminals for human rights transgressions, a category of action that has also been taken up by the US, the UK and others. The rising use of targeted sanctions against criminal actors thus should not be seen as a single global trend but rather the intersection of a number of trends to address the variegated harms caused by organized crime.

Despite this growing use, there has been limited tracing of why and how different international actors have converged in their use of targeted sanctions, how they have developed processes to issue and implement sanctions regimes and their impact and

effectiveness. This report addresses the first two issues. The questions of impact and effectiveness will be addressed in a separate, forthcoming report.

The report begins by briefly detailing what targeted sanctions are and how they link to the longer history of sanctions as a foreign policy tool. The second section looks at the evolution of the US's unilateral sanctions programmes and processes, which are rooted in a national security rationale.[13] The third describes the evolution of the UN's approaches to sanctioning criminal actors, which derive from concerns about the nexus between conflict and crime and the complicated political process of designation. The fourth section sets out how the EU and the UK are shifting their use of sanctions to target organized criminal actors, primarily based on thematic concerns around human rights, corruption and peace and conflict, and the process challenges these new sanctions regimes face. The report ends with a brief conclusion and recommendations.

This report is the first in a series of publications from GI-TOC research on the use of targeted sanctions against criminal actors. The series encompasses both global reports and country-specific and thematic studies.

Methodology

The methodology is primarily qualitative, based on more than 60 interviews with current and former government officials, UN investigators, lawyers, NGO personnel and local actors from a number of countries. The work also draws on broader background research and analysis conducted by the GI-TOC on transnational organized crime and the use of sanctions to address the phenomena over the last decade. Finally, it makes use of testimony and assessments issued by governments as well as reports, articles and books on targeted sanctions published by think tanks, academics and former practitioners.

THE EVOLUTION OF SANCTIONS AS A TOOL AGAINST CRIMINAL ACTORS

The UN Security Council votes on sanctions against Libya, March 1992. © *Don Emmert/AFP via Getty Images*

While modern financial and diplomatic sanctions – as opposed to longstanding trade embargoes and other tools of economic coercion – date back to the First World War, their use as a tool to specifically target criminal actors is much more recent, largely evolving between the mid-1990s and the present day. For most of the last century, sanctions were wielded by states or multilateral institutions (such as the League of Nations or the UN) against states, typically either to counter conflict or to uphold key international norms.[14] They were also relatively rare before the 1990s, both because Cold War tensions impeded their use by multilateral bodies and because the US and the Soviet Union looked to other tools to achieve their policy goals in the international sphere.

The end of the Cold War also ended restraint on the use of sanctions. Their use surged over the course of the 1990s. At the UN, this was due to the ebbing of Russian opposition to their use and the UN's increased leveraging of its capacities in response to the rising number of civil wars and other internal conflicts during the decade. The US and, to a lesser degree, other major powers also expanded their unilateral use of sanctions. For the US, this was eased by the primacy of the US dollar as a global reserve currency in a rapidly globalizing world, which gave substantial reach and impact to its financial sanctions.[15]

The swell in sanctions in the early 1990s followed a traditional path, involving comprehensive sanctions that targeted countries. Sanctions regimes were applied in one or more of four areas.[16] First, military sanctions were designed to prevent the acquisition of military equipment by targeted governments, often in the form of an arms embargo. Second, technological sanctions aimed to impede the acquisition or development of advanced technology by governments. Third, economic and financial sanctions were meant to deny a designated entity access to financial systems and, for governments, import and export markets. Finally, diplomatic sanctions involved visa bans and the downgrading or suspension of diplomatic relations between states or of the target's involvement in multilateral forums.

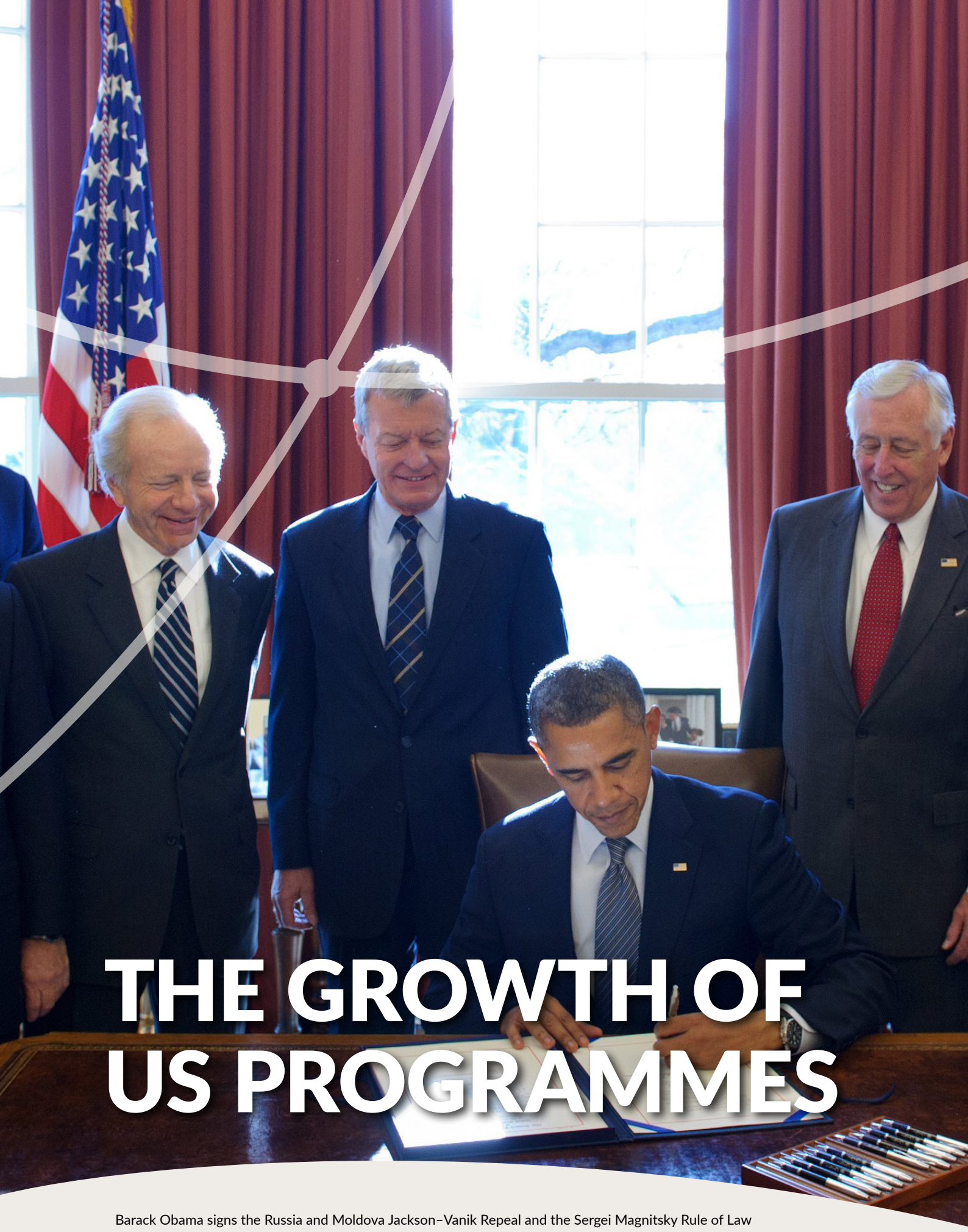
The move away from such traditional approaches in the middle of the decade set the stage for an evolution of criminal sanctions regimes, with a shift from comprehensive to targeted sanctions. In the mid-1990s, traditional country-focused sanctions were criticized as a blunt instrument with a poor track record.[17] Some high-profile comprehensive sanctions, notably those focused on Iraq, caused pronounced hardship for the citizenry without substantially affecting elites and governmental leaders.[18]

For this reason, targeted sanctions (also called 'smart sanctions') were devised. Meant to be more surgical, they were aimed at specific sectors, individuals or businesses within targeted countries to improve impact and mitigate humanitarian harms. While the four areas for sanctioning remained stable, targeted sanctions became highly focused on economic/financial and diplomatic approaches (even as technology and military sanctions continued to be well used).

Alongside the emergence of targeted sanctions, the second evolution in sanctioning processes in the 1990s saw the development of thematic or horizontal sanctions regimes. Unlike country regimes, which tethered designations to dynamics within a targeted country, thematic regimes could be applied globally to any individuals or entities implicated in a particular activity.[19] Early thematic approaches included US regimes to counter the proliferation of weapons of mass destruction (WMD) and to counter terrorism, issued in the mid-1990s, with the UN enacting a terrorism-focused thematic regime in 2000.[20]

These dynamics played out in a rapidly changing global economic context. The growth of sanctions as tools of foreign policy and security since 2000 can be explained, in part, as resulting from the rapid globalization of trade and financial services in the 1990s. This led to the rise of 'rogue banking', with sanctioned states, criminal actors and terrorists leveraging the financial sector to dodge sanctions and launder, move or store funds. As a result, anti-money laundering regulations were substantially tightened and expanded in the 2000s.[21] This, in turn, enhanced the ability of both the private sector and governments to pinpoint the ownership of funds in the financial system, increasing the opportunities for nation states to exercise economic leverage over foreign actors.[22]

Combined, the development of targeted sanctions, the emergence of horizontal regimes and the growing ability of states and the private sector to understand who was using their financial systems created the enabling conditions for the success of targeted sanctions regimes focused on criminal actors in the 2000s and 2010s. As the following sections will detail, regimes by different actors evolved in response to different rationales and different focuses.



THE GROWTH OF US PROGRAMMES

Barack Obama signs the Russia and Moldova Jackson–Vanik Repeal and the Sergei Magnitsky Rule of Law Accountability Act into law, December 2012. The US was the earliest adopter of sanctions to address organized crime and is its most prolific user. *© Alex Wong via Getty Images*

The US was the earliest adopter of sanctions as a tool for addressing organized crime and remains its most prolific user. From a narrow focus on Colombian drug traffickers in the 1990s, laws and executive orders have slowly but continually expanded the types of criminal actors and affiliated individuals that can be entities subject to designation.

The US's use of these tools hinges on a shift in the conceptualization of organized crime, from a criminal justice challenge to one of national security.[23] This occurred in the mid-1980s, driven by a sharp rise in South American cocaine trafficking and the violence and instability this drove in Colombia. The new framing was formalized in a national security directive from the Reagan administration that stressed the risk of destabilization in allied nations, driven by heightened government corruption, rising violence and linkages between trafficking networks and insurgent or terrorist groups.[24] Initially, this policy shift was narrowly tailored to focus on the trafficking of cocaine from Colombia (with George HW Bush later expanding this to Bolivia and Peru), largely with the aim of enabling US military involvement and heightening the interdiction of shipments.[25]

The Clinton administration shifted this approach, issuing a directive in 1993 that, in part, focused on the destruction of narco-trafficking networks by means of heightened prosecutions by the US and foreign states, as well as more robust efforts to target trafficker finances and money laundering.[26] As one former official remembered: 'He stunned us all by coming out with a [directive] that really ramped up what we did on drugs.'[27]

Listing criteria in EO 12978, Blocking assets and prohibiting transactions with significant narcotics traffickers, 1995

1 (b) foreign persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State:
(i) to play a significant role in international narcotics trafficking centered in Colombia; or
(ii) materially to assist in, or provide financial or technological support for or goods or services in support of, the narcotics trafficking ctivities of persons designated in or pursuant to this order; and

(c) persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, persons designated in or pursuant to this order.

In 1995, the administration expanded its approach to encompass financial sanctions through Executive Order (EO) 12978, the first regime specifically focused on criminal actors.[28] The order gave the US Department of Treasury, in consultation with the Departments of State and Justice, the authority to financially sanction specific Colombian traffickers, blocking transactions and freezing assets. This effectively barred a sanctioned actor from all transactions with a US link, unless Treasury granted a licence authorizing such activity.[29] It targeted not just traffickers themselves but also any companies in which designees (those under sanction) held at least a 50 per cent ownership.

Under a linked classified order, Presidential Decision Directive (PDD) 42, Clinton authorized the secretary of state to deny visas to 'a broad range of organized crime members, transnational criminals and related family members and to deny them entry into the United States'.[30]

Presidential Decision Directive 42, International organized crime, 1995

Criminal enterprises now move large sums through the international financial system that dwarf the gross national products of some nations. They buy and sell narcotics, migrants, currencies, nuclear material, arms, assassins and government officials. They ignore borders, except when buying safe haven behind them. Their actions increase violence in our own country, rob our nation of its wealth and result in the death of our citizens.

Their corrosive activities threaten all governments, including our own. International organized criminal enterprises, therefore, are not only a law enforcement problem, they are a threat to national security.

The rationale for issuing EO 12978 and PDD 42 included the impact of drug trafficking, in particular 'the unparalleled violence, corruption, and harm that [traffickers] cause in the United States and abroad'.[31] Writing later, the US Treasury noted the aim of such sanctions was to 'financially and commercially impair and impede, and to ultimately isolate and incapacitate narcotics traffickers, their supporters, and business empires'.[32]

The executive order was, conceptually, something of a hybrid approach. It followed the outline of previous sanctions regimes in its focus on a single country. However, it mirrored the evolution in focus seen in US executive orders to counter WMD proliferation and terrorism towards the targeting of individuals, entities and groups who were not linked to foreign governments.[33]

To implement EO 12978, the US Treasury, in consultation with the Departments of State and Justice, developed the Specially Designated Nationals and Blocked Persons List (SDN List), which detailed the names and basic personal information of designated actors and entities.[34] The first designees under the programme were key leaders in the Cali cartel, the largest trafficking organization then operating in Colombia.[35] Three years later, designations expanded beyond the Cali cartel to include high-profile personnel in a range of other trafficking organizations in Colombia.[36]

Although the total number of designees under EO 12978 was fairly low and limited to Colombia, the use of sanctions as a tool against crime was seen as a success within the US government. The programme, which was implemented alongside the broader Plan Colombia strategy and enjoyed significant buy-in from the Colombian government and private sector, blunted the power of the traffickers and led to a curtailment in the degree of their involvement in the broader Colombian economy.[37]

These achievements led to internal pressure to expand the application of this approach, which resulted in Congress passing the Foreign Narcotics Kingpin Designation (Kingpin) Act in late 1999. The new law expanded the application of drug trafficking sanctions globally: in effect, it was the first thematic regime developed by the US specifically to

Soldiers of the Colombian army inspect a vehicle in Cartagena ahead of President Bill Clinton's visit to the country, August 2000. *© Marcelo Salinas/AFP via Getty Images*

target organized criminal activity.[38] According to a senior US Treasury official, it was intended to

> 'de-certify' foreign drug lords rather than foreign governments and countries … and deny significant foreign narcotics traffickers and their organizations, including related businesses and operatives, access to the US financial system and all trade and transactions involving US companies and individuals.[39]

Similar to EO 12978, the Kingpin Act explicitly raised the national security impacts of trafficking (along with impacts on foreign policy and the US economy) as a reason for designation.[40]

Crucially, it also expanded the types of actors who could be designated to include those supporting designated traffickers and businesses linked to them regardless of their location or country of operation (termed 'derivative' or 'Tier II' designations). This expansion laid the groundwork for the Treasury Department to further ramp up pressure on non-US financial institutions involved in dollar-based transactions to cut ties with designated traffickers and their supporters. This approach, termed 'secondary sanctions', worked because of the primacy of the US dollar in international finance and the centrality of New York-registered financial institutions in facilitating dollarized transactions.[41] It was – and remains – controversial internationally, assessed by many states as an imposition on their sovereign rights to dictate which regulations their financial institutions must follow.[42] However, through this pressure, the US Treasury was able to substantially expand the reach of targeted economic sanctions designed against traffickers, with the designations of Tier II individuals in particular viewed as key to constraining trafficking networks and to the 'long-term effectiveness of the Kingpin Act'.[43]

Designations under the Kingpin Act were limited at first but expanded rapidly under the George W Bush administration. By early 2009, 78 traffickers had been designated under the Act, along with 496 designations of actors supporting the traffickers or businesses owned by them.[44] While the majority of designees were involved with Latin American drug traffickers, the list also stretched globally, encompassing a number of actors hailing from and operating in Asia or Africa.[45]

Towards the end of the Bush administration, the national security risks posed by organized crime more broadly, beyond drug trafficking, became increasingly recognized. There was substantial internal debate on how to respond, and whether to employ sanctions more widely to counter criminal actors.[46] As a former official involved in the discussions recalled, '[W]e were addressing drug trafficking and international terrorism, two parts of organized crime, but didn't have anything organized institutionally to address the rest.'[47]

In 2011, these debates led the Obama administration to issue a US strategy that aimed to 'build, balance, and integrate the tools of American power to combat transnational organized crime'.[48] A key component of this was the use of financial sanctions intended to 'disrupt and dismantle' criminal networks.[49]

Concurrent with the new strategy, the Obama administration issued a new executive order, EO 13581. It authorized the designation of any foreign actor who 'engages in an ongoing pattern of serious criminal activity involving the jurisdictions of at least two foreign states; and that threatens the national security, foreign policy, or economy of the United States'.[50] In detailing the risks of such entities to the US, the order noted growing challenges around criminal infiltration of governments and the broader financial system, with impacts on democracy, the rule of law, peace and conflict and the functioning of global markets.[51]

Listing criteria for EO 13581, Blocking property of transnational criminal organizations, 2011

1(ii). [A]ny person determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State:

A. to be a foreign person that constitutes a significant transnational criminal organization;
B. to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any person whose property and interests in property are blocked pursuant to this order; or
C. to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order.

In function, EO 13581 had broad continuity with the thematic approach developed under the Kingpin Act. Economic sanctions could be levied globally on criminal actors, entities in which they had a 50 per cent stake (including indirectly), and actors deemed to have 'materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services'. However, unlike the Kingpin Act and EO 12978, the new order allowed for the designation of any type of criminal actor, not only those involved in drug trafficking.

Initial designees reflected the expanded focus, with Russian, Japanese, Italian and Mexican criminal groups targeted. As its application was expanded, however, the executive order was used to incorporate actors as diverse as the Central American transnational gang Mara Salvatrucha-13 and the Zhao Wei group, an entity accused of a host of criminal activities, including wildlife trafficking, in the Golden Triangle special economic zone in northern Laos.[52]

The impact of EO 12978 was further enhanced by a separate presidential proclamation, issued the same day, which blocked the issuance of visas and entry into the US to individuals designated under a number of executive orders, including 12978 and 13581, as well as individuals designated under UN sanctions.[53]

FIGURE 1 Select US laws and executive orders salient to sanctions and organized crime.

This proved to be the start of a diversification of targeted sanction tools designed to counter organized crime during the 2010s. It reflected the Obama administration's sense that targeted sanctions were an 'effective tool for imposing costs on irresponsible actors' that could help to 'dismantle criminal and terrorist networks'.[54] In practice, this involved the promulgation of executive orders and laws that reflected changes both in organized crime dynamics and in US political and policy focus. In 2015 and 2016, for example, the Obama administration issued two executive orders, EO 13694 and EO 13757, which allowed for the designation of individuals involved in cybercriminality, which had risen precipitously throughout that administration.[55] The focus on cybercrime was further buttressed in 2017 by the Countering America's Adversaries Through Sanctions Act, which enabled the specific targeting of cybercriminals working with or at the behest of the Russian Federation.

Another example of sanctions programmes being driven by changing crime patterns was the Fentanyl Sanctions Act in 2019, which specifically focused on opioid trafficking. This was a key political concern, given the rise in use of such drugs in the US and the resulting overdoses. The law prohibits any US financial institution from providing a loan to a sanctioned individual or entity, along with the denial of visas and exclusion from public procurement contracts, among other measures.[56]

In parallel, the US government began to heighten the focus on criminality in its country-specific sanctions programmes, most of which are rooted in peace and security issues. Some of these, such as the Venezuela programme, were unilateral initiatives by the US. Many times, however, the country programmes were linked to UN sanctions regimes, although in many instances the US ended up going further than the UN in sanctioning criminal actors.

Hundreds of pounds of fentanyl and meth seized near Ensenada, Mexico, October 2022. © *Salwan Georges*/The Washington Post *via Getty Images*

The growing focus in country-specific programmes on crime as a peace and security challenge began in the 2000s with sometimes oblique references to the role of illicit natural-resource exports in supporting conflict actors.[57] The programmes became more overtly focused on criminal actors in the 2010s. This paralleled the UN's growing attention to organized crime and willingness to designate criminals (detailed later in this report). However, the US repeatedly expanded either regime criteria (e.g. to target piracy in Somalia) or the individuals designated (e.g. oil smuggling networks in Libya), beyond what the UN was doing.[58] Unlike other sanctions programmes that focused on criminals, most country programmes looked at the nexus of criminality and insecurity in the country concerned, rather than a more direct nexus in relation to the US.

Finally, the decade also saw a growing US focus on countering foreign corruption. While corruption and organized crime are not the same, they are often intimately linked.[59] Furthermore, corrupt acts themselves came to be construed by the US not just as normative transgressions but rather as threats to US national security, foreign policy and economic interests.

Counter-corruption sanctions, largely in the form of authorities allowing the denial of visas to specific actors, had existed since the early 2000s.[60] However, the application and focus of these were limited and not prioritized. This changed around 2011, in part due to growing awareness of the linkages between corruption and organized crime.[61] The issue also gained prominence as a point of convergence between the interests of law enforcement actors and human rights activists, the latter of whom had substantial influence within the Obama administration.[62]

Heightened prioritization was further enabled by the passage of four new pieces of legislation:

- the Russia and Moldova Jackson–Vanik Repeal and the Sergei Magnitsky Rule of Law Accountability Act of 2012 (known as the Magnitsky Act);
- the Global Magnitsky Human Rights Accountability Act (Global Magnitsky), signed in 2016;
- Section 7031(c) of the Department of State, Foreign Operations, and Related Programs Appropriations Act of 2020; and
- the United States–Northern Triangle Enhanced Engagement Act, signed in 2020.

The first two acts allowed for the targeted economic sanctioning of individuals who had either engaged in human rights abuses or government officials engaged in corruption, with the latter in particular offering a globally applicable sanctions authority. A further executive order, EO 13818, was issued in 2017, which both implemented and built upon the Global Magnitsky Act while broadening designation criteria.

The latter two acts followed a similar focus with narrower tools or aims. Section 7031(c) allowed for the designation of foreign government officials involved in 'significant corruption' or human rights violations to be denied visas, with such bans also applied to immediate family members. The programme did not allow for the targeting of broader networks, as the Global Magnitsky Act did, a gap flagged as problematic by one former senior US official.[63]

Finally, the United States–Northern Triangle Enhanced Engagement Act reflected the authorities and approaches used in Section 7031(c), but with a regional focus, targeting only corrupt and undemocratic actors in Honduras, Guatemala and El Salvador. It mandated the development of a public list and a visa ban for designated actors and their families.

Use of the counter-corruption and counter-crime sanctions regimes, and the US sanctions programme more broadly, shifted in the late 2010s during the Trump administration. Interviewees repeatedly noted that sanctions surged in frequency because career government officials saw sanctions as tools palatable to the administration through which they could accomplish key goals, including those related to organized crime, rule of law and human rights. Further, the Trump administration, in the words of one lawyer, effectively 'reset what was normal in sanctions', sanctioning high-level government officials, for example, as well as citizens of close allies such as Israel.[64] Previous administrations had not been willing to take such approaches, largely due to concerns around diplomatic impact. However, they were taken under Trump and the damage to bilateral relations was less than expected. This, in turn, increased the likelihood that these new norms of sanctions use would continue.

To date, the Biden administration has shown a broad continuity with approaches taken over the last 25 years. It has continued the general trend of broadening the reach of sanctions focused on criminal actors, releasing EO 14059 in December 2021. This expands potentially sanctionable activity to those who have 'engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production', as well as expanding the applicability of Tier II sanctioning. Effectively, the executive order offered more flexibility to address support and supply networks of the drugs trade, rather than just key leaders.

Furthermore, the current administration has demonstrated a willingness to designate high-profile or contentious actors under counter-organized crime regimes. The most vivid example came in January 2023, when the Wagner Group, a Russian private military company that is reportedly involved in illicit markets in various African countries, was designated under EO 13581.[65]

Listing criteria for EO 14059, Imposing sanctions on foreign persons involved in the global illicit drug trade, 2021

1(a). The Secretary of the Treasury is authorized to impose any of the sanctions described in section 2 of this order on any foreign person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and the Secretary of Homeland Security:

(i) to have engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production; or

(ii) to have knowingly received any property or interest in property that the foreign person knows:
(A) constitutes or is derived from proceeds of activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production; or
(B) was used or intended to be used to commit or to facilitate activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

(b)(i) to have provided, or attempted to provide, financial, material, or technological support for, or goods or services in support of:
(A) any activity or transaction described in subsection (a)(i) of this section;
(B) or any sanctioned person;

(ii) to be or have been a leader or official of any sanctioned person or of any foreign person that has engaged in any activity or transaction described in subsection (a)(i) of this section; or

(iii) to be owned, controlled, or directed by, or to have acted or purported to act for or on behalf of, directly or indirectly, any sanctioned person.

Russian and Rwandan security forces on patrol in Bangui, Central African Republic, December 2020. The Russian private military company Wagner was designated as a transnational criminal organization by the US Treasury in January 2023.
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This change in designation approaches also extended to the designation of criminal actors from key European states, including Irish organized crime figures, Dutch nationals allegedly trafficking fentanyl via the dark web and Maltese political actors accused of significant corruption.[66] Such designations importantly underscore the use of sanctions against crime and corruption globally, including in G7 states. One broad critique of the US organized crime sanctions programmes has been their overwhelming focus on the global South, mainly Latin America, even as organized crime has become increasingly entrenched in advanced economies in North America, Europe and East Asia. If the Biden administration's willingness to target criminals in the global North continues, it can both more accurately balance responses to organized crime challenges and offer a beneficial signal that the sanctions approach is not simply wielded by advanced economies against the developing nations.

The Biden administration also sought to build on anti-corruption sanctions programmes developed in the 2010s, issuing a comprehensive strategy for countering corruption in December 2021.[67] Further, the sanctioning of corrupt actors surged, including the use of Tier II designations to increase the impact of sanctions on the broader networks that facilitate or fuel corruption. Nonetheless, there is broad continuity in the use of sanctions as a key tool to address criminal actors. In the words of one official, 'Under the Trump administration, sanctions were a go-to tool. That posture has not changed under [the current] administration, although the focus [of sanctions] has changed.'[68]

The US process for sanctioning

The rise in the number of laws and executive orders enabling the designation of organized crime actors has been accompanied by the development within the US government of a well-established system for sanctioning.[69] A former US Treasury official stated that, 'Over the last two decades, a wide group of experienced civil servants have emerged who understand sanctions.'[70]

The Treasury Department remains the lead entity for the US, largely through its Office of Foreign Asset Control (OFAC). The Department of State is the second key actor, providing foreign policy guidance on any designations, as well as assessing signalling, messaging and impact.[71] The Department of State also issues mobility sanctions under its own authorities, such as visa bans linked to various executive orders or laws, such as the United States–Northern Triangle Enhanced Engagement Act.[72]

A number of other agencies are involved in or consulted on sanctions processes, including the Departments of Justice, Defence, Homeland Security and Commerce, USAID, the Central Intelligence Agency and the Office of the Directorate of National Intelligence. Their involvement varies, however, in both degree and their place in the processes.

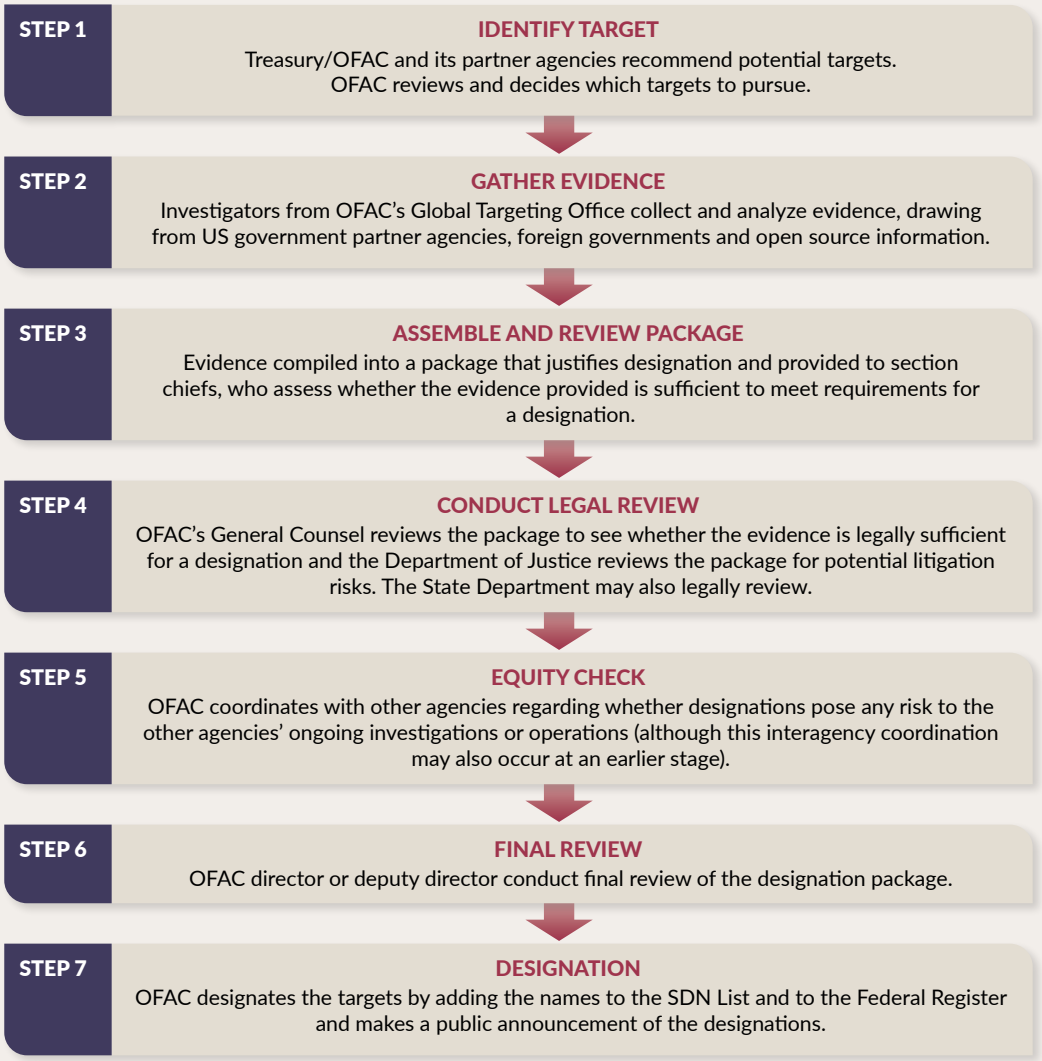


FIGURE 2 Process of US designation development.

The rise in the number of laws and executive orders enabling the designation of organized crime actors has been accompanied by the development of a well-established system for sanctioning.

The process of designation typically begins with the identification of a target by OFAC or the Department of State.[73] Depending on the sanctions regime, target identification can come from below, developed by OFAC analysts based on case information from partner agencies or open sources, or from above, driven by senior officials within the National Security Council, Treasury, State or the broader interagency community.[74] Often, a basic interagency check is done at this point, with OFAC reaching out to law enforcement agencies to assess whether other investigations are open, or equities exist.

Once a target has been identified, evidence is gathered for the designation package (also known as an evidentiary memo). This entails multiple evidentiary sources for each claim made. On non-drugs cases, OFAC or State investigators draw on information from other law enforcement or intelligence agencies, US embassies, foreign governments, the private sector, publicly available court records, corporate databases and /or other open-source information. Through the implementation of the Global Magnitsky Act, civil society has also become an increasingly important source of information for designation packages.[75]

For drugs-related designations, evidence is derived from the sources above, but there is often heavy collaboration between OFAC investigators and agents from the Drug Enforcement Administration (DEA).[76] Since the mid-1990s, the DEA and Treasury have collaborated extensively, with OFAC investigators often leveraging DEA cases, working with case agents to identify targets and develop designation investigations.[77] As one former Treasury official explained, '[T]he relationship with DEA is the special relationship in the OFAC building: it is really a partnership.'[78]

Once a designation package has been developed, it goes for initial internal review at either Treasury or State. At Treasury, for example, designation packages are reviewed by OFAC section chiefs and the assistant director, who assess whether the evidence provided is sufficient to meet requirements for a designation.[79] The evidentiary standard for sanctions designations differs from that used in criminal prosecutions, with investigators needing only to prove a 'reason to believe' that an actor is involved in proscribed activity.[80] According to a former Treasury official, the government has to show that, at the time of designation, the alleged conduct is actually occurring, and that the government is not acting arbitrarily.[81]

Once cleared by OFAC, the designation is sent to the Treasury's Office of General Counsel and the Department of Justice's Civil Division, who review it for legal sufficiency and any potential litigation risks.[82] Depending on the case, the Department of State may also legally review the designation.

At this point, a designation package is usually returned to the investigator to address edits. This can relate to evidentiary issues or, in some cases, involve the removal of one or more targets.[83]

Following amendments, an equity check process is conducted with other government agencies. At this point, a former state official said, 'you get a pulse of interagency about whether the pursuit of a designation negatively impacts priorities or programmes.'[84] The broad expansion of US sanctions programmes over the last two decades – both those targeting organized crime as well as broader themes, such as counter-proliferation and terrorism – have led to a growing number of actors becoming involved in such equity

checks. The former state official explained, as an example, that, 'at the beginning, USAID would not be an active player, then USAID realized the entities they worked with became increasingly exposed to the impact of sanctions. So, they became more focused on why State or Treasury was pursuing designations.'[85] The involvement of additional actors reportedly added time to the equity check and decision-making process but is also seen by former officials as contributing to better-designed and comprehensive targeted sanctions.[86]

If all government actors concur on the designation, the package is reviewed a final time within the Treasury at the OFAC director or deputy director level. Approval at this point leads to designation, with the sanctioned individual's name added to the SDN List, published in the Federal Register, and a public announcement made on the designation/s.[87] Usually, a pre-notification will be provided by the local US embassy to the government of a country where a designee is based, typically 24 hours before the public roll-out, in order to limit the risk of asset flight. [88]

The duration of the process can differ substantially, depending both on evidentiary availability and senior-level focus on a given designation. 'The process can play out in a week, and one occurred over 48 hours,' explained a former Treasury official. 'In other cases, designation packages can languish for months or years.'[89]

After designation, the US also routinely engages with foreign governments and private sector actors to explain the sanctions and their ramifications to audiences who might not be fully familiar with the issue.[90] Private sector cooperation on sanctions was originally an 'unintended consequence' of EO 12978 in Colombia. However, since the late 1990s, the Treasury has sought to foster it, leading, for instance, to the 2016 decision by the Mexican bankers' association to require members to sanction those on the SDN List.[91] Such private sector engagement and cooperation have emerged as important contributors to the success of sanctions programmes.[92]

Finally, the US has also developed a fairly functional process for addressing requests by designated individuals and entities to be de-listed. De-listing is administrative in nature, handled by the Departments of Treasury or State, with judicial review extremely uncommon.[93] While de-listing processes are difficult, uncommon and often lengthy, the applicant may be removed from the SDN List if they can prove there was an error in their designation, that the behaviour leading to the de-listing has been altered, or that they have been held to account for the behaviour by their home government.[94]

More informally, de-listings can also be advanced if a designee engages with and assists the US in investigations.[95] 'You don't get removed from a sanctions list for nothing,' explained a former Treasury official. 'These lists are really, really hard to get off from. When you see a removal, it's often because someone talked.'[96]

Lawyers interviewed for this report assessed the de-listing programme as slow, often opaque and difficult to win. However, they also flagged it as substantially surpassing systems in alternate jurisdictions. 'The US has a very well-resourced agency, which credibly could answer the phone,' noted a British lawyer. 'The EU doesn't have that. They have a legal office.'[97]

Overall, while the US has developed an effective process for targeted sanctions development and de-listing over the last two decades, challenges remain. According to former

US officials interviewed for this report, a key challenge is that sanctions are not always applied and coordinated in ways that reinforce broader strategic objectives around countering crime or achieving broader US foreign policy objectives in a given area or country.[98]

Sanctions have increasingly been mainstreamed into US strategies for countering organized crime, both at the global and regional levels, such as the Obama administration's strategy to counter transnational organized crime, the Biden administration's anti-corruption strategy and various strategies targeting the US south-west and Caribbean borders.[99] Within these strategies, sanctions are almost always part of a larger toolkit with other diplomatic or law enforcement tools run by different government departments and agencies. The most touted success of criminal-focused sanctions relates to the Cali cartel, which also saw the use of indictments, rewards for arrest and capacity-building of Colombian judicial, prosecutorial and security forces, all undertaken by different government agencies.[100] These approaches ultimately led to the elimination of the cartel; however, it is arguable that they worked largely because they were employed in combination.[101]

Although detailed within broader strategies, sanctions programmes often predate the development of such strategies and in practice are not always coordinated with other tools or employed in a way that reinforces broader strategic objectives.[102] In Honduras, for example, the decision to designate the Rosenthals, a family with deep political and economic power, under the Kingpin Act was largely made without consulting the local US embassy.[103] When informed, the ambassador noted that the designation would shutter Banco Continental, a major bank within the country, and so risked substantial economic ramifications, possibly resulting in heightened migration and human smuggling from the country.[104]

The case of the Rosenthals also underscores process gaps within the US system with regard to embassy consultations that, officially, are meant to be part of the equity check process. During the check process, designations are usually provided to State Department country desk officers, who review them and send them on to the specified ambassadors if they perceive them to be controversial.[105] In some instances, this works well, with ambassadors aware of and, in some cases, taking an active role to support or oppose designation decisions.[106] In others, such as Honduras, this process manifests weaknesses. At best, such gaps in consultation only impede the ability of embassies to effectively prepare for local public messaging and government engagement around consultation.[107] At worst, broader US efforts to counter organized crime may be harmed by designation decisions.

The issue in Honduras underscored the sometimes conflicting objectives and consultation challenges within the US interagency. There, as in many other drug-linked cases, the information that drove the designation emanated from a DEA investigation. Such investigations, and the mission objectives of the DEA and the Department of Justice more broadly, are often highly focused on achieving US prosecutions. They are not always looking to broader foreign policy goals or any counter-crime initiatives that the US may have in a given country. Further, there is often pushback on the mission authority of ambassadors.[108] OFAC's heavy dependence on DEA investigations, then, can lead to adverse or counterproductive foreign policy impacts, especially if the overall equity check process does not include embassy-level consultations.[109]

Finally, although the US has a highly developed and experienced cadre of civil servants versed in the design and process of sanctions, their expertise tends to be concentrated in specific programmes or countries, primarily those assessed as top-tier national security threats, such as Russian programmes in the wake of the Ukrainian invasion, Iranian counter-proliferation, and counter-terrorism.[110] This is manifest both at the Treasury and throughout the broader interagency. This concentration of expertise is unsurprising, but it nonetheless acts as a limitation on sanctions regimes that, while important, are less critical to an administration. Many counter-crime initiatives fall into this category. This broader issue can be compounded when presidential administrations change, with incoming senior national security personnel not necessarily well-versed in the nuances of sanctions policy. This underscores the importance of expanding professional training programmes on the issue to include broader categories of actors within the interagency.

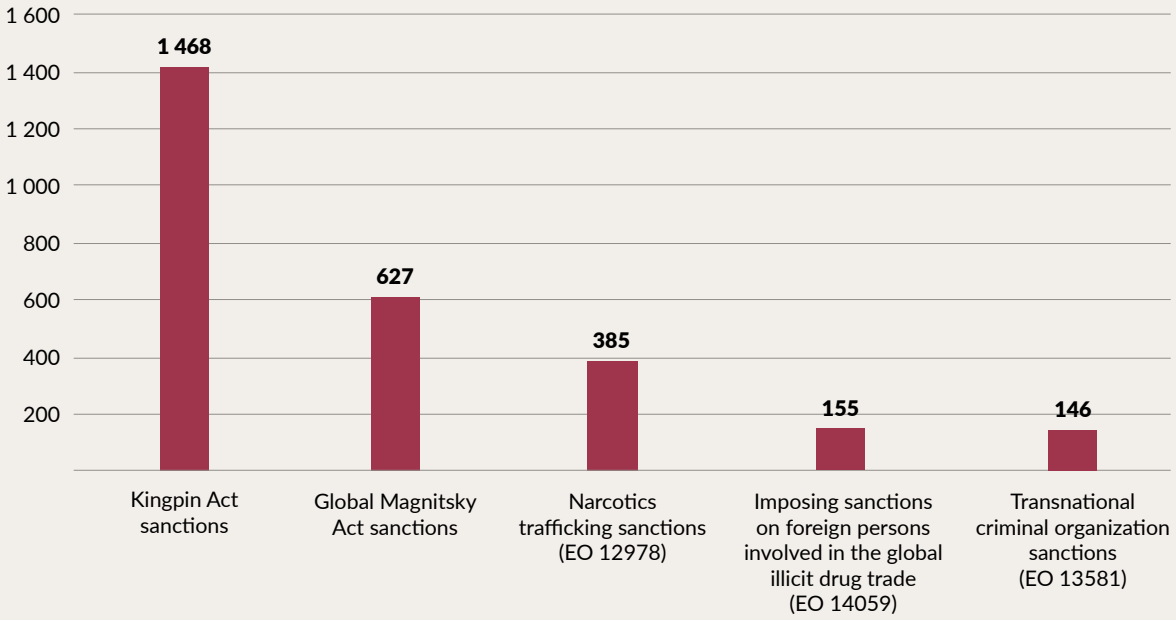


FIGURE 3 Number of individuals and entities designated by programme.

NOTE: Accurate as of June 2023.
SOURCE: Castellum.ai

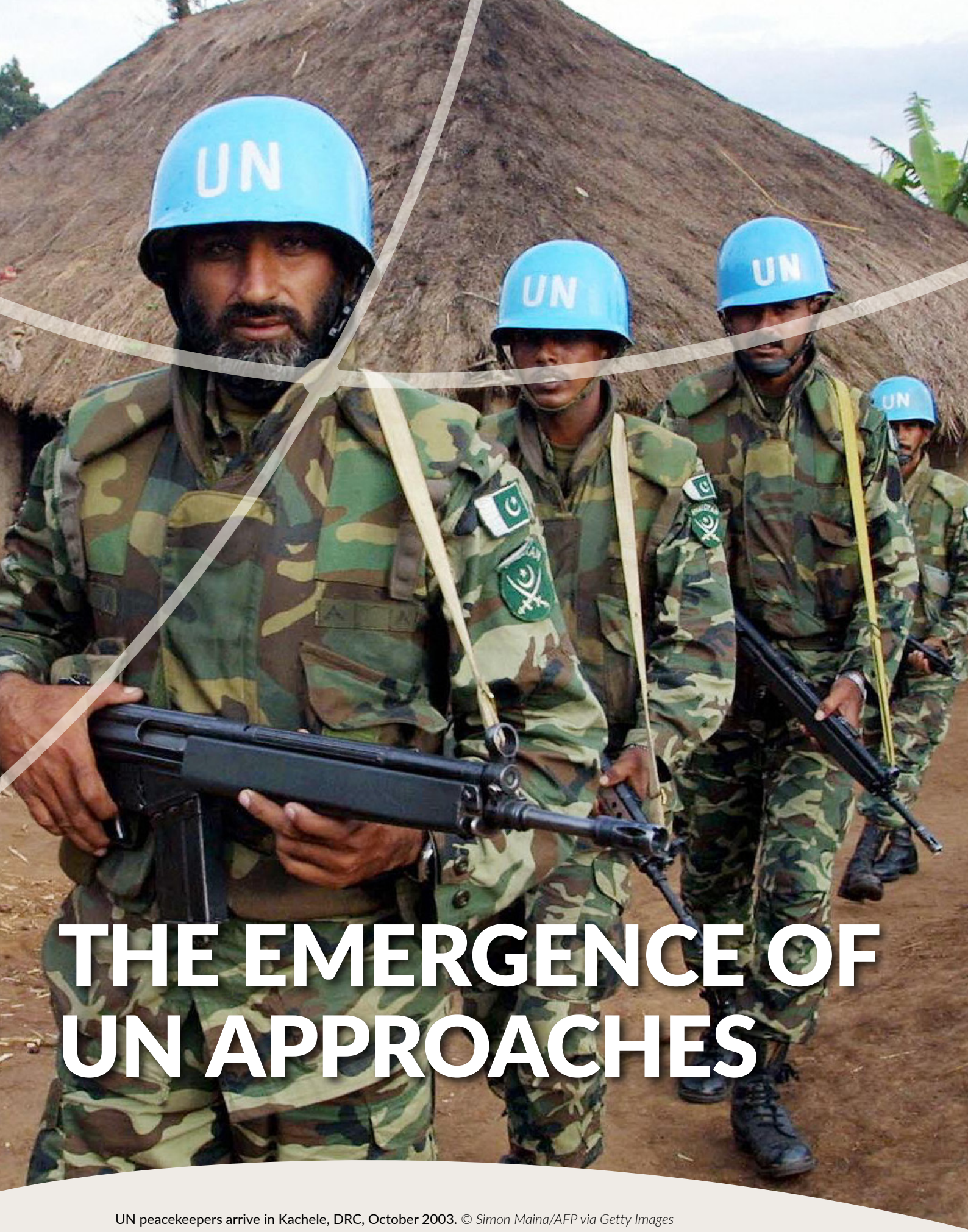
In summary, US sanctions policy to target criminal actors has grown and diversified since the turn of the millennium. This parallels a broader expansion in the use of sanctions by the US. It has become a 'tool of first resort' for addressing national security challenges, including terrorism, nuclear proliferation and nation state adversaries.[111]

From a single programme focused specifically on Colombian drug traffickers, a combination of laws – the Kingpin, Fentanyl and two Magnitsky Acts – and executive orders now enable targeted sanctions against criminals, including asset blocking and denial of entry to the US.

The executive orders focus on thematic sanctions, such as those addressing drug trafficking and organized crime groups, or on country sanctions that incorporate criminal activity as a designating criterion or where other designation criteria have been employed to target criminal actors.

Nearly all these initiatives are predicated on the national security threat posed by different forms of criminal activity. Because of this, the aim of sanctions is seen as marginalizing criminal actors and mitigating the most serious ramifications of crime on the global economy, on political stability and corruption in vulnerable countries and on peace and security, rather than to eliminate illicit markets per se.

The expansion of sanctions regimes and authorities has been aided by the relative unanimity within the US government about the utility of sanctions approaches over the drawbacks. 'Not a lot of political capital needs to be expended for a new sanctions programme,' explained one former US official. '[They are a] low risk–high reward action the government can take in trying to affect foreign actors in a way they may not be touched otherwise.'[112]



THE EMERGENCE OF UN APPROACHES

UN peacekeepers arrive in Kachele, DRC, October 2003. © *Simon Maina/AFP via Getty Images*

The UN has also substantially increased sanctions designations of criminal actors over the last 20 years. However, unlike many of the US programmes described above, with thematic programmes premised on national security goals, UN programmes are country-based regimes in response to conflict and political instability (including unconstitutional transitions of power). This approach addresses the destabilizing impacts of illicit economies, often through criminal financing of conflict actors or 'spoilers'.

The UN has been empowered to use sanctions against threats to peace and security since its founding, deriving this from Chapter VII of its Charter. Like the US, targeted sanctions imposed by the UN generally involve some form of either asset blocking or travel bans, with implementation by member states.

Unlike the US, where laws and executive orders have slowly expanded legal authorities for sanctions, the UN has no set criteria for what behaviour can result in a designation. Rather, sanctions regimes are created on a case-by-case basis by the UN Security Council in response to a threat to, or breach of, international peace, detailing the objectives, methods and designation criteria for sanctions.[113] These dynamics can be, and often are, adjusted when the Security Council reauthorizes sanctions regimes.

Because of this process, the rising use of targeted sanctions by the UN against criminal actors has been driven by shifts in how the international community – particularly the five permanent members of the Security Council – design sanctions and conceptualize the role of criminal actors in driving or sustaining conflict or human rights violations.[114]

The initial policy shift that laid the groundwork for using sanctions against criminal actors was the development of targeted sanctions against individuals or entities posing specific threats to peace or security and economic sectors supporting their activities.[115] In response to criticism of the comprehensive state-focused sanctions used in the 1990s, targeted approaches were meant to minimize the impact of sanctions on the broader population of a country. This approach has been used with all new sanctions regimes issued since 2004.[116]

FIGURE 4 Select UN Security Council resolutions salient to sanctions and organized crime.

The design of targeted sanctions, however, meant that they could be applied beyond state-linked entities to non-state actors such as terrorist networks, militias and insurgent groups and their members. They could also apply to individuals involved in certain types of activity proscribed by sanctions regimes, including, in some cases, involvement in illicit economies. Further, targeted sanctions were a cheap and fairly safe means to constrain and influence actors' behaviour in sometimes volatile post-conflict situations, especially when compared to more complex, expensive and controversial interventions such as peacekeeping missions.[117]

The second policy shift was a growing acknowledgement of the relationship between illicit economies and conflict and, more specifically, that the former could 'drive' or sustain the latter and consequently pose a direct obstacle to peace and security aims. This can be seen, for example, in Security Council resolutions, with references to illicit markets spiking over the last 20 years (see Figure 5).[118] In 2022, 55 per cent of Council resolutions mentioned some type of illicit market, while 22 per cent detailed an organized crime actor.[119] At first, these were mainly concerned with illicitly exported natural resources, such as diamonds, timber and coltan; references to human trafficking and the illicit wildlife trade only emerged in 2008 and 2014 respectively.[120]

The new conceptualization of the intersection of illicit economies and criminal actors was also reflected in the design of sanctions regimes. This first manifested in West Africa in the early 2000s, when sanctions regimes set up to address the conflicts in Sierra Leone, Liberia and Côte d'Ivoire all explicitly referenced the role of illicitly exported natural resources in funding the conflicts.[121] In the case of Liberia, a small number of private individuals were sanctioned for their involvement in the illicit diamond trade

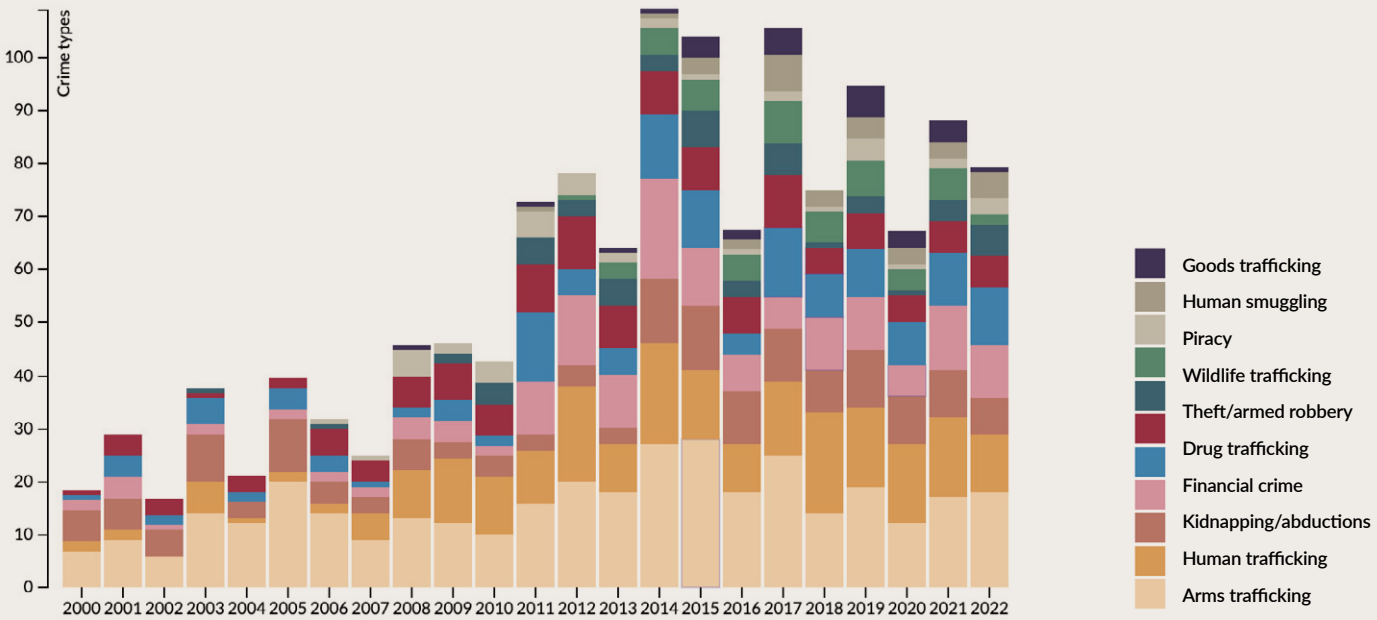


FIGURE 5 Security Council resolutions mentioning organized crime, 2000–2022.

SOURCE: GI-TOC

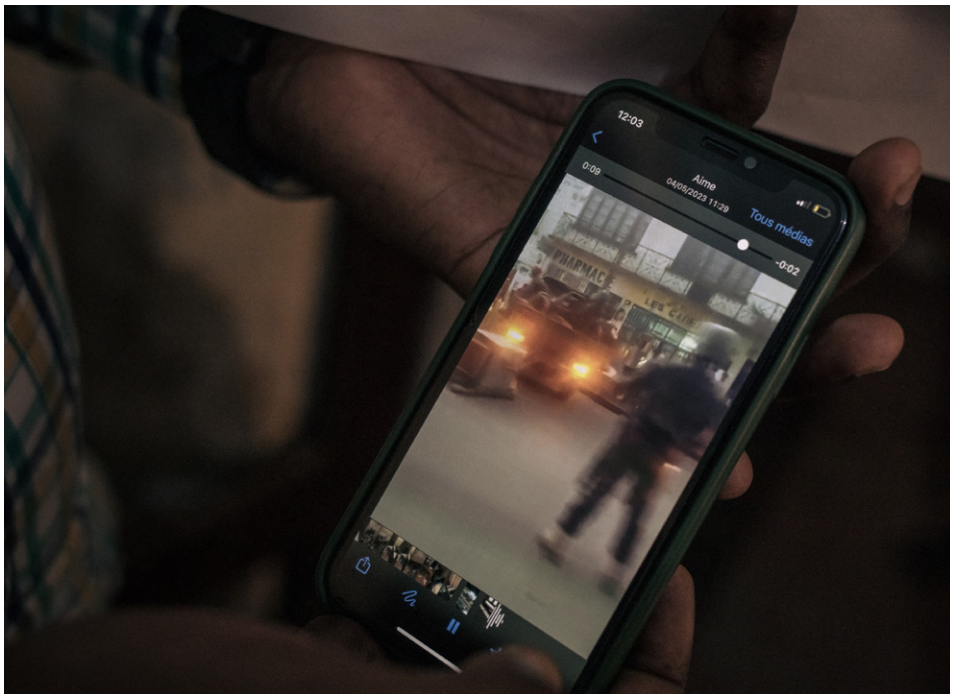
Designation criteria for the Guinea-Bissau regime, UNSC Resolution 2048, 2012

6. […] the measures [above] shall apply to the individuals designated by the Committee […]:
   (a). Seeking to prevent the restoration of the constitutional order or taking action that undermines stability in Guinea-Bissau, in particular those who played a leading role in the coup d'état of 12 April 2012 and who aim, through their actions, at undermining the rule of law, curtailing the primacy of civilian power and furthering impunity and instability in the country;
   (b). Acting for or on behalf of or at the direction of or otherwise supporting or financing individuals identified [above]
7. […] such means of support or financing include, but are not limited to, the proceeds from organized crime, including the illicit cultivation, production and trafficking of narcotic drugs and their precursors originating in and transiting through Guinea-Bissau.

and support for conflict actors, which seems to be the first sanctions meted out for such behaviour.[122] However, the criminal aspect was generally of secondary importance, with the sanctionable activity more closely linked to either the financing of conflict actors or evading sanctions on the export of certain goods.[123]

The role of illicit economies in undermining peace processes, including the disruption of constitutional processes and democratic transitions, also shaped their inclusion in sanctions regimes. The 2012 Guinea-Bissau sanctions regime, established in the wake of a military coup, highlighted the role of the cocaine trade in financing and shaping the goals of the military regime and allowed for designation of criminal actors linked to certain political actors.[124] Here, the UN's sanctioning approach mirrored that of the Economic Community of West African States, which has predominantly used sanctions against undemocratic shifts in power.

This approach, of providing for the sanctioning of criminal actors if they were linked to conflict actors or spoilers, expanded throughout the remainder of the 2000s and 2010s, including in the Democratic Republic of Congo (DRC), Guinea-Bissau and Mali.[125] In some cases, such as Guinea-Bissau and Mali, where criminality in support of an armed group or spoiler could be established, the criminal justification for sanctions was provided for in the first iteration of a sanctions regime. Often, however, such criteria only came about in later renewals of sanctions regimes, such as in the DRC, or were implied rather than specifically detailed, as in Somalia.[126]



Video of an anti-gold trafficking operation in Bukavu, DRC, 2023. *© Alexis Huguet/AFP via Getty Images*

Designation criteria for the Democratic Republic of Congo regime, UNSCR 2293, 2016

7. […] the measures […] shall apply to individuals and entities as designated by the Committee for engaging in or providing support for acts that undermine the peace, stability or security of the DRC, and decides that such acts include:
   (g) supporting individuals or entities, including armed groups or criminal networks, involved in destabilizing activities in the DRC through the illicit exploitation or trade of natural resources, including gold or wildlife as well as wildlife products;
   (h) acting on behalf of or at the direction of a designated individual or entity, or acting on behalf of or at the direction of an entity owned or controlled by a designated individual or entity;
   (i) planning, directing, sponsoring or participating in attacks against MONUSCO peacekeepers or United Nations personnel;
   (j) providing financial, material, or technological support for, or goods or services to, a designated individual or entity.

More types of criminal activities were also specifically named in this period, including trafficking in wildlife and piracy. Designations of actors linked to these illicit markets followed, although the numbers were limited. This partly reflected the aim of most sanctions regimes, which was to compel conflict actors to seek peace. However, it also emanated from the often highly political process of designating a sanctions target, with key members of the Security Council often loathe to designate criminal actors.

Many UN sanctions regimes created panels of experts to monitor the context on the ground in the countries under sanction, identify sanctions violations and name individuals for designation. These panels, first developed during the Angola sanctions regime in the late 1990s, typically craft highly detailed reports (generally made public) that delve deeply into the links between political actors, criminal activities and conflict economies. They often underscore how this interrelation stymies efforts to implement peace agreements and build stability.[127]

In some instances, the panel report on the role of illicit markets in a given conflict foreshadowed the development of new designation criteria.[128] Even when panel reports did not result in the designation of illicit actors, their inclusion of specific names and information on activities effectively 'named and shamed' – a deterrent aspect in its own right.[129]

In the mid-2010s, UN sanctions regimes in respect of criminal actors began to change their strategy, sanctioning criminal activities in their own right, without the need for a direct connection to conflict actors. This marked a watershed moment in the use of sanctions against organized crime. Its first manifestation was in Libya in 2015, when designation was allowed for those 'providing support for armed groups or criminal networks through the illicit exploitation of crude oil or any other natural resources in Libya'.[130] The next year similar language was adopted in the DRC, allowing designation for activity in support of criminal networks. As well, it made explicit mention of 'wildlife as well as wildlife products': the first time such illicit markets had been included as criteria by the UN.[131] Designation criteria for targeted criminal actors were adopted by other regimes, including the Central African Republic (CAR) in 2018 and South Sudan in 2020.[132]

Designation criteria for the Haiti regime, UNSCR 2653, 2022

15. Decides that the provisions [...] shall apply to individuals and entities, as designated for such measures by the Committee [...], as responsible for or complicit in, or having engaged in, directly or indirectly, actions that threaten the peace, security or stability of Haiti;

16. Decides that such actions [...] include, but are not limited to:
    a. Engaging in, directly or indirectly, or supporting criminal activities and violence involving armed groups and criminal networks that promote violence, including forcible recruitment of children by such groups and networks, kidnappings, trafficking in persons and the smuggling of migrants, and homicides and sexual and gender-based violence;
    b. Supporting illicit trafficking and diversion of arms and related materiel, or illicit financial flows related thereto;
    c. Acting for or on behalf of or at the direction of or otherwise supporting or financing an individual or entity designated in connection with the activity described [...] above, including through the direct or indirect use of the proceeds from organized crime;
    d. Acting in violation of the arms embargo established in paragraph 11 of this resolution;
    e. Planning, directing, or committing acts that violate international human rights law or acts that constitute human rights abuses in Haiti;
    f. Planning, directing or committing acts involving sexual and gender-based violence, including rape and sexual slavery, in Haiti;
    g. Obstructing delivery of humanitarian assistance to Haiti or access to, or distribution of, humanitarian assistance in Haiti;
    h. Attacking personnel or premises of United Nations missions and operations in Haiti, providing support for such attacks[.]

The change in the criteria was reportedly due to a combination of factors internal and external to the UN. Within the UN, according to one interviewee, the Department of Political Affairs recognized that traditional sanctioning parameters were too narrowly drawn, functionally excluding some key actors whose activities were highly destabilizing.[133] At the same time, the US, UK and France applied substantial pressure for a more expansive approach. This meant that 'UN internal ideas met with an external pressure moving in the same direction'.[134]

In practice, however, even when regimes enable sanctioning based on support to criminal groups, designations have almost always involved those with a link to conflict actors, usually via financing.

With the establishment of the Haiti sanctions regime in October 2022, the UN went further. The criteria in that regime recognized that criminal gangs and networks were the primary threats to peace and allowed for the designation of those involved in or supporting criminal activities, including human trafficking, migrant smuggling, arms trafficking and drug trafficking.[135] In these criteria, and the resolution creating the regime, the UN first acknowledged that criminal actors and activities could themselves be direct threats to peace and security. It is worth noting that this step was taken despite serious polarization among Security Council members.

Alongside the rise in the identification of criminal actors as peace and security threats, there was also a growing trend in designation narratives – particularly in the sanctions regime for the CAR and for ISIL (Da'esh) and al-Qaeda – to detail the criminal activities of armed groups, terrorist networks and their members, including illegal taxation, illegal exploitation of gold and ivory trafficking.

According to a UN investigator in the CAR, this was partly undertaken to build rapport with the government, which was not highly supportive of UN sanctioning.[136] However, it also reflected that

> all of the armed groups [in the CAR] are essentially also economic actors. There is a kernel of grievance but at this stage all actors are criminal: they control roads, tax [the] movement of people and goods, offer protection in transhumance and are involved in the mining sector.[137]

Finally, as designation criteria expanded in some regimes, the UN also became more creative in its use of other, non-crime-based criteria to target criminals. The most overt

example has been the sanctioning of six human smugglers and traffickers in Libya in 2018, based on their involvement in the abuse of migrants' human rights.[138] This is meant to address an impediment in the UN process in the designation of criminal actors (detailed below). As a European diplomat explained, 'Going after just criminals is very complicated; using international humanitarian law – or a link to peace and conflict – is a way to make it work.'[139]

The process of UN sanctions

Over the last 20 years, the UN has demonstrated an increased willingness to consider and employ targeted sanctions to counter organized crime actors and broader illicit economies that pose threats to peace and security. This change could have a substantial effect in countering criminal actors, as UN sanctions are multilateral and thus nominally enforced by all UN members, in contrast to the unilateral regimes used by the US and other states.[140]

Nonetheless, despite a growing interest in designating criminal actors and the Security Council's crafting of regimes that enable this, actual designations remain limited in comparison to US and, to a lesser degree, EU regimes. This gap reflects the UN's complex and consensus-dependent processes.

The UN sanctions process is initiated by a Security Council vote to establish a sanctions regime for a given issue by a resolution. Regimes are generally country-focused: 30 of the 31 regimes implemented since 1968 fall into this category.[141] Only the ISIL (Da'esh) and al-Qaeda regime is thematic. One former UN investigator claimed there has been interest in and discussions on a thematic regime focused on organized crime, but there is little to show that this has advanced in any way.[142]

A man tests his gun in Port-au-Prince, Haiti. In 2022, the UN recognized that gangs were primary threats to the country's peace and created a sanctions regime in response. © *Alpeyrie/ullstein bild via Getty Images*

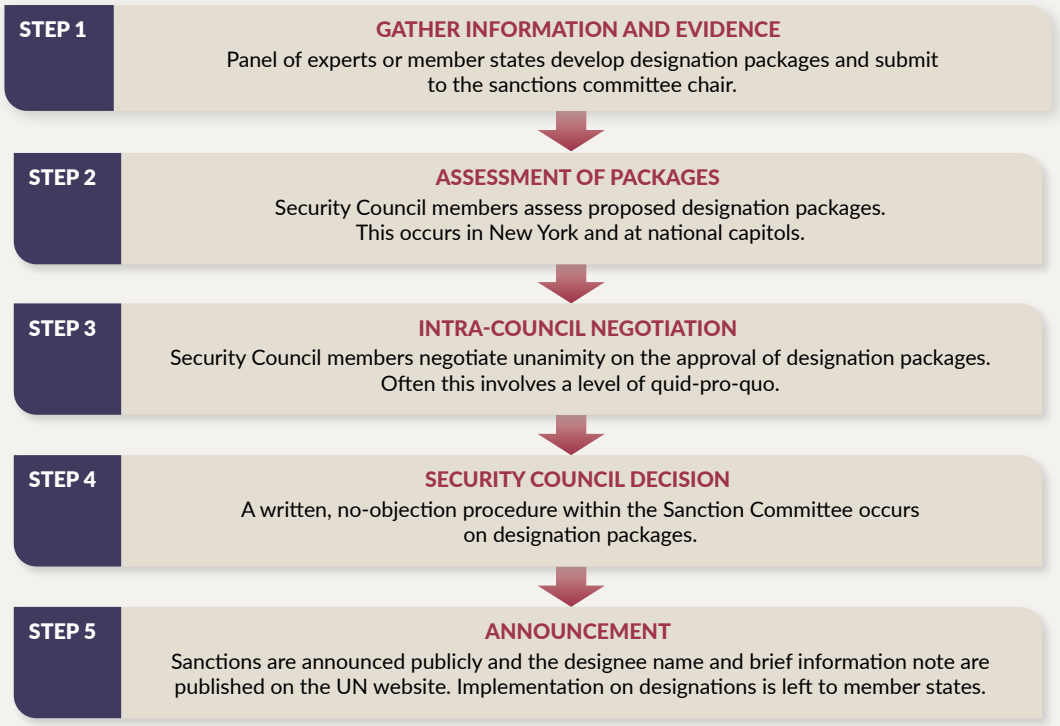


FIGURE 6 Process of UN designation development.

The Security Council resolution that establishes a given sanctions regime lays out the background issue the UN intends to address, establishes a sanctions committee and sets out the listing criteria for designations and their ramifications (generally asset freezes and/or travel bans). Resolutions can be, and often are, updated to include or remove designation criteria in response to the unfolding situation on the ground or the Security Council's understanding of it.[143] This can be seen, for example, in the expansion of designation criteria to include reference to illicit economic actors linked to armed groups in the DRC, the CAR and Libya.

The sanctions committee is the primary implementor of the regime. It comprises expert representatives from the 15 members of the Security Council and is overseen by a chair and vice-chair (both usually drawn from elected rather than permanent members of the Council).[144] The UN provides administrative and research support to the committee through the Security Council Subsidiary Organs Branch (SCSOB).[145] The sanctions committee oversees all aspects of the regime in question, including the designation of actors, assessment of compliance with sanctions and the removal of individuals from sanctions lists.

The designation development process broadly starts by gathering information on individuals or actors whose actions contravene the prohibitions laid out in the operative resolution. As noted previously, expert panels have increasingly served this role, submitting midterm and annual reports, and confidential, and often highly detailed, designation packages.[146] While other actors, such as civil society organizations, cannot submit draft designations, they may engage with panels and member states and provide

salient information. The designation packages are often lengthy, setting out the reasoning and evidence to contend that an individual or entity has committed acts that meet the designation criteria for a given regime. Members of the Security Council can also submit proposals for listings.

Once the sanctions committee has received the proposed draft designations, the member states assess them for evidentiary strength, indications that due-process rights have been followed and the potential impacts on the goals of the sanctions regime and the members' foreign policy interests. Normally, the packages are sent back to national capitals for interagency review and input.

Unlike the US, EU and UK systems, the UN has no independent evidentiary standard for designations. Former experts interviewed for this report noted that, in general, a successful designation requires substantial evidence. However, the standard of evidence can vary and is not linked to formal UN requirements but rather to the standards needed to satisfy member states on the committee. One former US official noted, 'The US doesn't allow things at the UN to go forward if the domestic [requirements for the] designation isn't ready first. We build in a very extensive legal review.'[147] However, in the experience of a European official, the 'rigour of evidentiary level is a bit of a mess. Evidentiary standards can be low, and if nobody challenges it, it goes into effect.'[148]

Often, proposed listings are halted after diplomats of Council members send them back to their home government for review. One diplomat who served on multiple sanctions committees noted, '[O]ften there is very little appetite to move forward with listings, unless either there is 100 per cent surety [that] someone is implicated in crimes or there are [domestic] political interests.'[149] Even when a Security Council member has an interest in advancing a designation, the question is often how strong their interest is and how entrenched the opposition is.

During this period, committee members negotiate unanimity on the approval of designation packages. Often this involves a level of quid pro quo, with extensive lobbying. A European official who has experience of steering the designation of criminal actors through the Council emphasized the substantial outreach and lobbying required, involving like-minded states and especially non-Western states. When possible, the active or tacit support of the country where a designation is taking place can prove determinative in overcoming entrenched opposition.[150]

A designation can be opposed on the basis of evidentiary gaps, but ideological components are also salient. Russia and China have historically been wary of designating criminal actors, with both claiming that criminal activity is an internal matter for the state under a sanctions regime and so falls outside the purvey of the Security Council.[151] Further, the connections between some criminal actors and national elites can blur the line between criminals and the kind of clear-cut 'enemies of the state' that China and Russia have historically been more comfortable designating. At a broader level, this resistance links to a longer-standing opposition to the Council engaging in activities that are seen as outside of the UN Charter.[152]

Russia and China, however, have proven more supportive of the designation of criminal actors when there is a clear-cut peace and security threat, such as with the regime involving Haiti. There, Russia and China supported the consideration of further designations to address insecurity.[153]

More broadly, the risk that specific national interests are being challenged has been a barrier to negotiating designations.[154] The UK, for example, halted a proposal by the US to levy UN sanctions on two Somali pirates in 2010, reportedly due to pressure from its maritime sector, which was worried the sanctions would limit their ability to pay ransoms to pirates for the release of ships and mariners.[155] Further, a former UN investigator noted, 'the presence or absence of [Russian and Chinese] interests, and the corresponding focuses of the regimes, are one reason why you see such differentiation in designation activity'.[156]

If negotiations within the sanctions committee lead to an informal agreement, the next step is for a formal email, with a cover letter and statement of case, to be sent to all committee members.[157] A deadline – typically five days – is set for the registration of objections or holds.[158] If no written objection is recorded, a designation is passed and will then be announced

publicly, with the UN member states then responsible for implementing the financial or travel sanctions on the designated individual or entity.

In the UN system, de-listing mechanisms exist, both for states to advocate for de-listing their nationals or residents and for the individuals themselves to submit applications. In the former, a state can directly petition a given sanctions committee.[159] In the latter, the individual typically submits a petition to the Focal Point for de-listing, a component of the SCSOB that receives petitions for all sanctions regimes save for the ISIL (Da'esh) and al-Qaeda regime, which has a stand-alone system involving an ombudsperson. The Focal Point in turn sends de-listing requests to the relevant sanctions committee chair, who then assesses the application. As with listing, a de-listing petition requires non-objection by all committee members to be successful.

Generally, an applicant must show either an error in listing or evidence that they no longer meet the criteria set out in the sanctions regime they are listed under.[160] Efforts to assess changed behaviour can be impeded by the limited retention of institutional knowledge within the system, due to the regular recomposition of committees and panels.[161] This can make functional removal or review difficult for petitioners. In the assessment of a former UN investigator, 'There aren't many means to redress when someone has been incorrectly reported on. Each committee has its own operating rules, and, like a court, the onus of appeal is on you.'[162]

The UN processes for designating and de-listing are generally slow and, arguably, highly political. Because of the opaque nature of sanctions committees, and the Security Council more broadly, support for and opposition to specific designations are often obscured, giving the impression of a legalistic, merits-based process for designations rather than the highly political and often transactional reality of the process.[163] While the non-proliferation and terrorism regimes often gain relatively easy consensus, the country regimes – which encompass all criminal designations levied by the UN – are often complicated by the domestic and foreign policy interests of member states.[164] Frequently, even a comprehensive designation package that details a potential designee's involvement in sanctionable activity does not lead to the imposition of the sanction.[165] A former expert on the Libya panel spoke of 'potential designations that were immediately blocked [at the Council]. This was deflating, but I understood it's not a question of the quality of evidence but what the political conditions are for designation.'[166]

The UN faces other challenges in its employment of sanctions regimes to counter organized crime actors and more broadly. The panel-of-experts system presents a key challenge. It has proven to be a valuable innovation, providing sanctions committees and the Security Council with in-depth field-based assessments of often opaque and highly complex conflict and post-conflict situations. This, in turn, democratizes access to information for committee members and lessens the reliance on information from large, well-resourced member states, mainly the five permanent members of the Security Council.

Nonetheless, the panels face several structural challenges. Perhaps foremost among these is their relatively short mandate: in most cases, a single year. One former expert stressed the impact of this:

> [T]he main enemy is time. Investigations into [transnational organized crime] networks take a long time […]. At [the] start of the mandate you know you need to make choices. You might have five possible leads but will be impossible to conclude all five leads in 12 months. [So] you bet on leads that are most promising or most conducive, and sometimes [you] hit a wall.[167]

The same interviewee said that panel mandates need to be expanded to lengthen the time available for investigations, like, for example, the longer mandate employed within the ISIL (Da'esh) and al-Qaeda regime.[168]

An expansion of panels' mandates would also buffer pressure from members when investigators pursue particularly sensitive leads. The UN Secretariat hires experts, but member states on the Security Council influence the selection, lobbying for some and blocking others.[169] Over the last decade, the reappointment of individual experts has routinely been blocked by member states. In one case, the entire CAR panel was blocked from reappointment, reportedly due to a member state's sensitivities around some of the

investigations they had pursued.[170] This poses a strong risk to the depth of investigations and the ability of experts to pursue particularly complex leads.

A third issue with the panel system has been the slow expansion of their responsibilities. Beyond assessing implementation and identifying violators of regimes, many are now tasked with raising awareness of the nature of a given sanctions regime and the ramifications for transgression for states and private sector actors.[171] Effectively, the panels have become committees' primary all-purpose tool in the field, with implications for their ability to conduct the rigorous investigations typically needed for organized crime and illicit economic actor cases.

A final challenge faced by panels is the limited protections experts have. Despite being tasked with investigating highly sensitive issues in volatile conflict conditions, experts are effectively independent consultants, operating without the protections afforded to UN staff, such as the blue UN laissez-passer passport.[172] They are also required to purchase their own private health coverage in case of illness or injury as well as evacuation insurance. Their work on illicit economies and the power structures linked to them further heightens these risks. In several cases, experts have been killed or detained, underscoring the dangerous limits in the UN's duty of care and its capacity to support and provide for the missions.[173]

One former expert stressed, 'The UN is not designed to properly support intelligence-gathering bodies [like panels] outside of the context of peacekeeping missions.'[174] Given the decision by the UN in June 2023 to pull its peacekeeping missions out of Mali, and potentially pull out of the DRC, the question of how to improve the system to provide sufficient protection and support to panel staff is arguably critical.[175]

Distinct from challenges related to panels and process, the UN faces challenges in the strategic utilization of their sanctions, including against criminal actors. In most cases, sanctions are used alongside a range of other tools, including diplomatic engagement, peacekeeping missions (whose mandates also have increasingly explicit elements of organized crime) and capacity-building support among other initiatives. This mirrors the US use of sanctions as one component of a larger toolkit to address a given issue.

At present, however, the UN's use of sanctions also appears to mirror the deficiencies seen in the US, with sanctions imperfectly integrated into overall country strategies and often poorly coordinated with other tools.[176] 'There is some strategic thinking around use of sanctions with other tools,' explained a European diplomat, 'but it's not as beautifully planned as it can be. At the end, the people working on [these issues] are more focused on short-term challenges.'[177]

Compared to the US, the UN remains a limited actor when it comes to sanctions and organized crime. The rise in regimes with criteria that enable designations of criminal actors has not been accompanied by a substantial rise in such designations being issued. Largely this is the result of structural issues: in particular, the heavily political nature of the UN sanctions process and the need for unanimity. This has been compounded both by ideological issues, such as Russia's and China's historical scepticism of designating illicit economic actors, and by the specific economic or foreign policy interests of member states. Nonetheless, it is important to underscore that some aspects of the UN process are both functional and innovative. The panels of experts, for example, have proven valuable for data collection on peace and conflict issues and sanctions evasion and the development of designation packages on potentially sanctionable individuals and actors.

Despite issues in implementation, there is a growing consensus in the UN, as shown in regimes and designations, that organized crime actors are themselves major impediments to peace, security and human rights, and should be addressed with all tools available. This consensus arguably sends an important signal to the international community on the issue. Further, as evidenced by the new Haiti regime, opposition has not impeded deepening sanctions action around transnational organized crime. As one UN investigator noted, referring to the growing UN willingness to sanction criminal actors, 'It hasn't turned back: that is a success.'[178]

THE DEVELOPMENT OF EU AND UK APPROACHES

European Union leaders meet for a year-end summit to discuss sanctions against Turkey among other agenda items, Brussels, December 2020. *© Olivier Matthys/POOL/AFP via Getty Images*

Over the last two decades, the EU, its 27 member states and, since 2020, the UK as a unilateral actor have shown increased interest and willingness to use targeted economic and mobility sanctions against criminal actors.[179] Termed 'restrictive measures' by the EU, their use has not been comparable in volume and reach to the US's sanctioning programmes and is only moderately greater than the UN's. However, the bloc is a potentially important actor, with the size and financial importance to make a substantial impact on criminal networks and actors globally, should it more strongly exert the restrictive-measure authorities it currently has. [180]

Similarly, the UK, in the wake of its departure from the EU, has developed new targeted sanctions tools explicitly aimed at crime and corruption. Such approaches have substantial potential, given both the importance of the UK to global finance and the clear interest of British authorities to leverage them in their foreign policy strategies, although their use against criminal actors remains limited to date.[181]

EU sanctions rest on a slightly different framework than that of the US, which is based mostly on national security interests, or the UN's, where peace and security concerns predominate, and broadly serve two goals. [182] First, to address peace and security threats, both through the incorporation of UN sanctions into the domestic law of EU member states and through autonomous sanctions. Second, the imposition of autonomous sanctions focused on thematic goals, such as supporting democracy, the rule of law and human rights and defending the principles of international law.[183]

The EU has been a relatively longstanding employer of sanctions, with unilateral sanctions by the bloc first levied in 1980, targeting the Soviet Union over its invasion of Afghanistan, and slowly growing use throughout the 1980s and 1990s.[184] Like the US and the UN, the EU shifted away from comprehensive sanctions in the late 1990s, opting instead for more targeted approaches such as financial blocking and visa bans.[185] Despite the shift to targeted approaches, the focus remained mostly on individual countries. This changed in 2001, with a horizontal terrorism regime developed largely in response to the September 11 attacks in New York.[186] It led to a sharp increase in the targeting of actors unconnected to states, laying the groundwork for a similar approach to be adopted in country-focused regimes, with implications for the evolution of designations targeting criminal actors over the last 20 years.

FIGURE 7 Select EU sanctions regimes targeting organized crime.

Broadly, the adoption by the EU of restrictive measures targeting criminal actors has occurred in three waves. The first involved the implementation of UN sanctions regimes, including designations issued by the various sanctions committees.[187] The process here was less intentional than automatic, with UN sanctions generally given automatic effect through EU Council decisions and regulations, which in turn were generally binding on all member states.[188] Therefore, as the UN slowly increased targeted sanctions of criminal actors in the 2000s and 2010s, the EU's designation of such actors subsequently increased.

However, the EU has historically held the right to not simply enact sanctions on individuals designated by the UN Security Council, but also to apply its own autonomous designations. Termed 'gold-plating', or 'supplementary sanctions', such designations can come about when political disagreements within the Security Council preclude the designation of an individual or entity that the EU member states believe should be sanctioned or limit the inclusion of specific sanctioning tools within a regime. The second wave of EU activity to designate criminal actors comes from such gold-plating of existing UN country-based sanction regimes.

In Libya, for example, the EU used existing UN designation criteria in 2020 to sanction a reported human smuggler.[189] In other cases, the EU has adopted designation criteria that expand on what was laid down in UN resolutions. In the DRC, the EU updated its criteria in 2022 to allow for the designation of any actor or entity that 'exploit[ed] the armed conflict, instability or insecurity in the DRC, including through the illicit exploitation or trade of natural resources and wildlife'.[190] Moving away from the need for criminal actors to be linked to the financing of armed groups, this substantially expands the range of individuals and entities that can be targeted, although no designations have so far been issued under the new criteria. It seems that gold-plating of sanctions on criminal actors, while extremely limited at present, is likely to expand.[191]

The final wave involves fully autonomous sanctions regimes developed by the EU. The bloc maintains a number of such regimes, with most focused on specific countries of concern, such as Syria, Guinea and Venezuela. In most cases, their goals, and hence designation criteria, revolve around fairly traditional foreign policy goals. However, there have been moves to use existent criteria to target criminal activity, or to incorporate organized crime and corruption criteria directly into new regimes.[192] In an example of the former, under its Syria regime, the EU in April 2023 designated 15 individuals and

A migrant rescue operation off the Libyan coast, 2016. In 2020, the EU sanctioned a reported human smuggler in Libya. © *Andreas Solaro/AFP via Getty Images*

entities involved in drug trafficking, noting that the production and trafficking of drugs in the country had become a 'regime-led business model, enriching the inner circle of the regime, and providing it with revenue that contributes to its ability to maintain its policies of repression'.[193] An example of new criteria developed to target crime and corruption can be seen in neighbouring Lebanon, where the EU's autonomous restrictive-measure regime, implemented in 2021, allows for the designation of individuals involved in 'serious financial misconduct, concerning public funds'.[194] While to date there have been no designations on corruption grounds, the bloc's agreement to include it underscores a conceptual shift in what restrictive measures can accomplish.

The EU has also increasingly adopted horizontal sanctions regimes that target discrete thematic issues with global applicability. Two of these, against cyberattacks and human rights breaches, have salience for organized crime.

The cyberattack regime emerged in the wake of a number of incidents targeting the EU and its member states. Two states in particular, the UK and the Netherlands, faced substantial incidents, leading them to push for a new regime to address the threat.[195] Although prompted by incidents believed to be state-linked, the regime includes criteria and language that are equally applicable to non-state actors, including those motivated by pecuniary interest, should the magnitude of the attack fit the criteria detailed in the Council resolution.[196] Practically, the 12 designations passed to date have all involved actors or entities believed to be linked to, or directly employed by, nation states. Nonetheless, given the growing ubiquity of cybercriminality, it remains a potentially potent yet underutilized tool.

Efforts to create a human rights regime began in 2018, again pushed by the Netherlands, as a means of addressing gross human rights violations.[197] Efforts to uphold human rights were long a major component of EU country programmes, reflecting a key priority of the bloc, but these were tethered to specific geographic areas. Developing a thematic regime was seen as a way to expand applicability and thus facilitate the use of sanctions to address gross human rights violators.[198]

Designation criteria for EU Council Decision (CFSP) 2020/1999

Article 1.1. This Decision establishes a framework for targeted restrictive measures to address serious human rights violations and abuses worldwide. It applies to:

(a) genocide;
(b) crimes against humanity;
(c) the following serious human rights violations or abuses:
  (i) torture and other cruel, inhuman or degrading treatment or punishment,
  (ii) slavery,
  (iii) extrajudicial, summary or arbitrary executions and killings,
  (iv) enforced disappearance of persons,
  (v) arbitrary arrests or detentions;
(d) other human rights violations or abuses, inc luding but not limited to the following, in so far as those violations or abuses are widespread, systematic or are otherwise of serious concern as regards the objectives of the common foreign and security policy set out in Article 21 TEU:
  (i) trafficking in human beings, as well as abuses of human rights by migrant smugglers as referred to in this Article,
  (ii) sexual and gender-based violence,
  (iii) violations or abuses of freedom of peaceful assembly and of association,
  (iv violations or abuses of freedom of opinion and expression,
  (v) violations or abuses of freedom of religion or belief.

The Global Human Rights Sanctions Regime was established by an EU Council Decision on 7 December 2020. Alongside the designation criteria that would be expected in a regime focused on human rights, including torture, extrajudicial killing and enforced disappearances, the regime also explicitly allows for the designation of those involved in the 'trafficking in human beings, as well as abuses of human rights by migrant smugglers'.[199] While in part reflecting a key EU focus on human smuggling and trafficking, the regime represents the bloc's first sanctions tool to target such criminal typologies globally.

This new regime, while promising, has not yet led to any designations of human traffickers and has seen relatively modest use more broadly.[200] As one interviewee noted:

> There is a lot of interest among actors in the new instruments, obviously. Although the EU isn't going to make a lot of designations: the criteria remain somewhat unclear and [proposals] depend on [member] country strategic priorities and broader strategic goals of the bloc.[201]

Overall, the last 20 years have seen the EU accrue a substantial amount of latent authority and power to counter criminals through restrictive measures. This seems set to continue, with indications that the Global Human Rights Sanctions Regime will be amended in 2023 to include corruption as a designation criterion, potentially with organized crime also included, both building on conceptual framing in the Lebanon sanctions regime and, more broadly, mirroring the approach of the US Global Magnitsky Act.[202]

Despite this growth in authorities and the broader rise in the use of restrictive measures by the EU, the application of these tools to target criminal actors has been more modest. This, in turn, results from the relatively complex structure necessary for developing designations as well as the heightened degree of judicial oversight of restrictive-measure designations.

The process of EU sanctions

The EU process for the development of restrictive measures sits in a middle ground between the bureaucracy-heavy US approach and the highly politicized, negotiation-dependent process of the UN system. For the EU, the issuance of restrictive measures requires unanimity among the 27 member states, mirroring the UN system to a degree.[203] However, this unanimity is often easier to gain within the EU, given the closer alignment of member-state interests and the existence of a Common Foreign and Security Policy (CFSP), in which the restrictive-measure process is embedded.[204]

The employment of restrictive measures begins with the establishment of a specific regime. This details the criteria for designation, the impact of such action (typically financial blocking or visa bans), any exemptions and the process and roles within the regime.

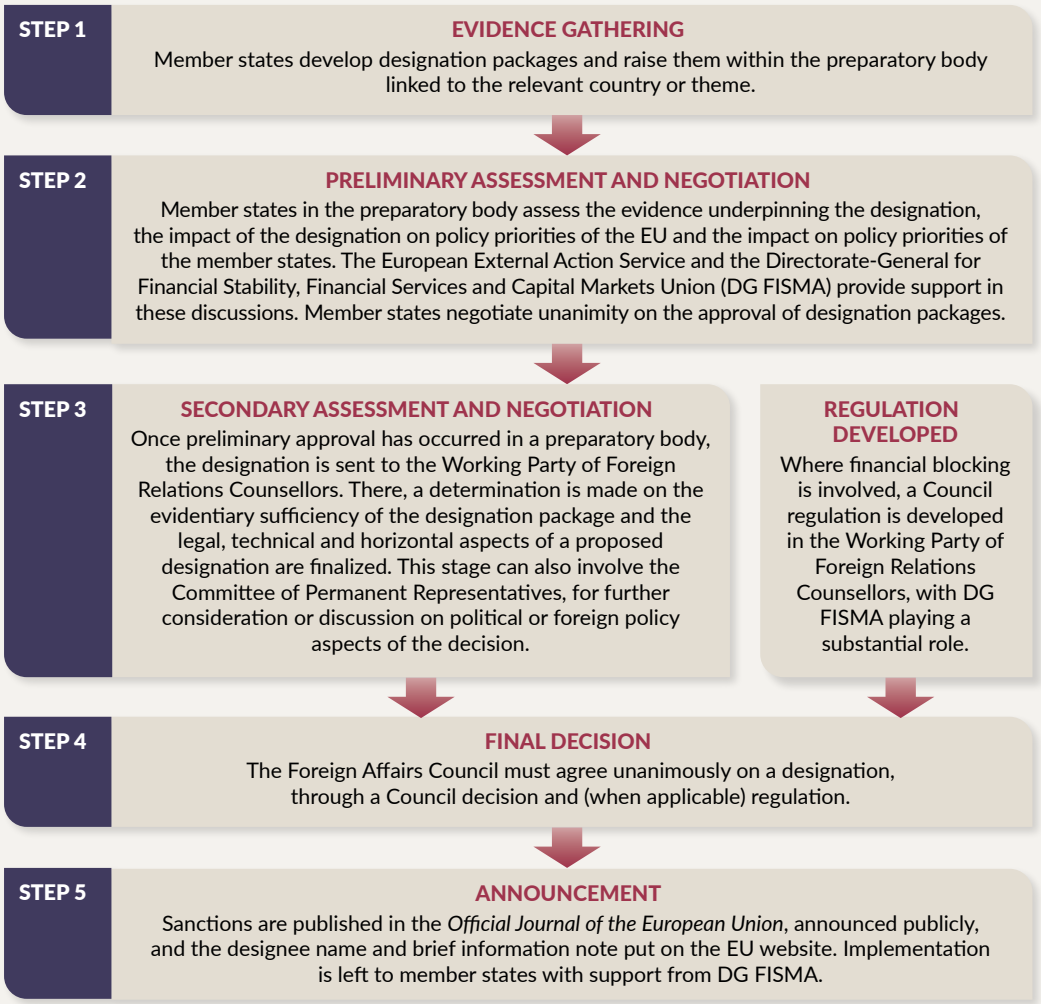


FIGURE 8 Process of EU designation development.

Typically, EU regimes are reviewed at regular intervals, often yearly, to assess continued relevance along with any designations linked to them, with a focus on evidence.[205]

With a regime in place, the identification of individuals violating the regimes and proposals for listing is nominally undertaken by both the European External Action Service (EEAS) and member states.[206] In practice, however, member states are primarily responsible for the development of designations, both through the supply of information and by diplomatically pushing for designations within the Council.[207] As one NGO official bluntly noted, 'Submitting [a] filing to EEAS is a dead end and won't go anywhere unless you speak to member states.'[208] The development and advancement of designations thus remain highly dependent on member-state interests and priorities driving the focus of sanctions within various regimes.[209]

The information feeding into designation packages includes publicly available data and information developed by member state government bodies, including diplomatic, law enforcement and intelligence sources.[210] The human rights regime has also followed the US Global Magnitsky Act in allowing for non-governmental organizations to submit evidentiary information, including comprehensive dossiers in some cases.[211] The process for submissions is reportedly not straightforward, however. A British lawyer with such

experience explained, 'First you have to identify the person in charge of [the] region for the EEAS, then you have to take it to the [specific] working group inside.'[212]

The designation process starts when a member state circulates the confidential designation package to all member states, whereby it identifies an individual or entity to be designated. Within the document, the member state or group of member states have to provide the reasons why this designation is being proposed under a specific regime and justify how such a designation falls within the specific listing criteria of the specific regime. The proposed designation is then raised within the Council preparatory body linked to the relevant country or the theme.[213] There, a member state formally proposes the designation and then circulates it to the other member states through their representatives in the preparatory body.[214]

The consultation process involves preliminary evidentiary assessments by member states, and, within the geographic or thematic working group, a political assessment, including the impact a designation may have on member states and the broader policy priorities of the EU. The EEAS, including specialized sanctions staff and representatives from field delegations, and the sanctions unit from the Directorate-General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA) often assist at this stage, providing analysis, design recommendations and issues relating to the implementation of proposed designations.[215] DG FISMA has reportedly become an increasingly active player on sanctions, particularly those focused on Russia or Iran, primarily its provision of strategic advice.[216]

When designations are developed under a thematic regime, except for the terrorism regime, designations are usually considered by at least two different preparatory bodies. These include the thematic body, linked to the regime, and the geographic body linked to the location of the individual or entity to be designated. The bodies typically engage extensively as the political assessment is developed.

The general evidentiary standard is 'a sufficiently solid factual basis'. This language emanates from a judicial decision in the 2013 Kadi II case.[217] Unlike the US or UN, autonomous designations by the EU are subject to litigation by those targeted, effectively creating a system of judicial review through the Court of Justice of the European Union (CJEU).[218] Previous cases have established some standards for evidence on specific listing criteria, but when new criteria are developed – for example, on human rights or cybercrime – there is often a degree of uncertainty about how the General Court, the operative body within the CJEU for restrictive measures, will rule.[219] Practically, this means that evidentiary assessments by the Council, through geographic working groups, and member states tend to be conservative in approach, so as not to risk the retraction of a designation by the General Court.[220]

Proposals can be, and often are, delayed at this point due to capacity gaps among member-state delegations, wrangling over evidentiary issues or purposeful delays in review by a member state.[221] Pushback by member states on proposed designations is common, especially if particular foreign policy or commercial interests are impacted by the proposed listing.[222] In turn, the negotiations inherent in the process and the ability of member states to hold up proposals they object to shape the nature of designations and restrain the speed with which they can be developed.[223]

If and when preliminary agreement is reached on a proposed designation within a geographic or thematic working group, the designation is then sent to the Working Party of Foreign Relations Counsellors (RELEX), which is tasked with monitoring and evaluating all autonomous EU restrictive measures.[224] Within RELEX, a determination is made on the evidentiary sufficiency of the designation package and the terms of the 'legal, technical and horizontal' aspects of a proposed designation are finalized after examining and at times negotiating, according to one European official, 'the nitty-gritty of every word'.[225] At this point, if disagreements exist within RELEX, the designation may also be sent to the Council's Committee of Permanent Representatives, an ambassadorial-level structure, for further consideration or discussion on political or foreign policy aspects of the decision.[226]

Ultimately, designations must be agreed to unanimously by the EU Foreign Affairs Council, through a Council decision.

Where financial blocking is involved, a Council regulation is also developed, in order to 'harmonize the sanctions

framework at the EU level'.[227] This is done first within RELEX, with DG FISMA playing a substantial role, before being voted on in the Foreign Affairs Council. Unlike council decisions, regulations can be passed via a qualified majority of member states.[228] In practice, however, decisions and regulations are closely bound together, and member states are generally unwilling to agree to a Council decision until the text of a regulation is acceptable.[229]

The approved designation is then published in the official journal of the European Union and publicized, with enforcement left to the member states, supported by DG FISMA.[230] While the designation packages developed by the Council can often be quite lengthy – including the original proposal and records of all formal discussions and notes during its consideration – the justification publicly released is often extremely limited, typically only a paragraph. As the EU has become more experienced in issuing sanctions and faced emergent litigation challenges, it has moved to actively attempt to notify those designated not only of the act and its implications, but also the avenues available for de-listing.[231]

The EU process for developing restrictive measures has arguably advanced over the last 20 years, with deepened processes and approaches to crafting regimes and designations and, equally, the development of a staff cadre within both the EU and member states experienced in the development of restrictive measures. Nonetheless, a number of existing process challenges may limit the likelihood that the bloc will substantially increase its use of sanctions tools against criminal actors.

The first challenge revolves around access to and sharing of information. As noted earlier, the EU maintains a number of bodies that work on sanctions – including different departments within the Council and specific personnel within the EEAS. However, in practice, these bodies tend to play a consultative role once designations have been developed, rather than an active role in developing information salient to designations.[232]

As a result, the resources of the EU and the EEAS are not commonly leveraged in information collection. EEAS delegations are key hubs of information in the countries where they are posted, often exceeding the missions of smaller states in size and capacity (although this capacity discrepancy can vary substantially). However, these delegations reportedly do not systematically share information salient to designations with member-state delegations, whose resources are often far more constrained. As one interviewee explained, 'On sanctions, the main information holder is functionally not sharing that information with the actors who need the data to make designations.'[233]

On the one hand, the post-conflict or fragile situations of most EU country programmes make understanding the criminal networks within them a complex task. On the other, many member states may have limited diplomatic presence. Given these factors, the EEAS's limited involvement in providing its information to support designation development effectively leaves the larger, better-resourced states to be the primary actors on sanctions proposals. This in turn – to some degree – risks skewing the proposed designations towards the particular interests of those states.

This raises another issue related to information sharing. Larger states with well-resourced investigative and intelligence capacities are often leery about formally sharing salient information on potential designees.[234] This is partly due to concerns that controlled or classified information will be released or exposed by other member states or by designated individuals during litigation. [235] In response to member-state requests, the CJEU has created a process for closed hearings. However, this has not been used. As one British lawyer explained, 'Member states don't trust the system, and so don't believe that their genuinely sensitive material won't be shared with all other member states.'[236]

This means, effectively, that most of the information used for restrictive-measure designations is open source.[237] From a transparency and due-process perspective, this is arguably a boon: it allows for those designated to see the substantiative evidence underpinning their listing and, when merited, to push against it. However, it also poses a challenge to the identification of criminal actors, where the necessary data is rarely openly or readily available, potentially skewing designations towards those for whom information is available, rather than those whose designation would more effectively achieve key EU goals.

The second process challenge faced by the EU involves judicial review and litigation. As noted previously, the

EU stands out from the US and the UN in the role of the General Court in hearing legal challenges by designated individuals. This came about because of the impact of targeted restrictive measures on individual rights and because the early efforts to craft regimes and develop designations had both procedural and evidentiary weaknesses. This, in turn, led to a number of early designations being overturned, particularly from the terrorism regime, with the Kadi I and Kadi II cases the most high-profile example.

Court challenges have arguably shaped and improved the EU evidentiary standards and specific processes around restrictive measures, including due-process rights and notification of designees.[238] A British lawyer explained,

> [There] used to be lots of challenges around procedure. Broadly speaking, that doesn't happen any more. As a result of early challenges, procedure has been worked out and follows a pattern that is broadly accepted by courts to be acceptable due process. Now [it] tends to hinge on factual accuracy of allegations.[239]

Litigation by designated individuals has led the EU and member states to be extremely careful in assessing the robustness and completeness of evidence within designation packages, particularly when it comes to non-state actors, with the evidentiary requirements substantially tightened over the last decade.[240] This links in with the data collection and sharing issues outlined previously, further hampering the feasibility of the EU ramping up its use of restrictive measures in criminal or corruption matters.

Another challenge to the development of further designation is heightened litigation risks involved in designating politically exposed actors who are linked to criminal activity, mainly wealthy businesspeople whose activities skirt the line between legal and illegal. As one European NGO official noted, 'The guys with the money can also hire lawyers, including specialists in EU [law], and can create trouble.'[241]

A final process challenge for the EU involves the need for unanimous agreements on designations. While the political impediments to unanimity may not be quite as severe at the CFSP Council as those seen at the UN Security Council, the need for agreement nonetheless shapes, slows and, in some cases, serves to bar designations. There are some ongoing discussions about streamlining the EU sanctions system, including the role that EEAS research can play in designations.[242] However, there is little specific information on whether or when improvements will emerge.

The EU's challenge in decision-making on restrictive measures is also reflected at the level of strategy, with consensus requirements among the 27 member states frequently impeding the effective development of broader country or thematic strategies.[243] In part, this is due to the divergent national-level foreign policy priorities of member states.[244] However, it also reflects the general structural weakness of EU bodies on foreign policy matters. There is some indication that the conflict between Ukraine and Russia may be buttressing the bloc's strategic planning, although it remains unclear whether this shift will be durable or will lead to changes in how the bloc develops country strategies for other high-priority states on its periphery, such as Libya. For the present moment, there is little indication of a systemic shift towards more effective strategy. This has practical implications for the bloc's growing use of restrictive measures, including those to target criminal actors, which will impede their use within broader synchronized toolkits in a given context and, therefore, their overall effect and utility as a foreign policy tool to counter organized crime.

Predicated on countering organized crime where such actors intersect with broader thematic priorities, mainly human rights, rule of law and peace and security, the EU approach represents the latest model of a sanctions regime against criminality. It has led to a rate of designations that, while exceeding that of the UN, remains relatively limited. Like the UN, the EU's designation process is limited by the requirement of unanimity among member states, in which the selection of targets is tangled up within contrasting political goals of different states. The process is further limited by the lack of independent investigative support. There is no equivalent to the UN's panels of experts in the EU system, placing the onus for developing designation packages in the hands of member states.

Nonetheless, the EU has substantial potential to effectively leverage restrictive measures as a tool to address organized crime. The bloc is a key global

financial centre, with particular strong connections to large swathes of Africa and Eurasia. There is also a long history of international actors implicated in corruption or criminal activity or both moving their funds to EU member states and laundering them there.[245] Both dynamics make financial sanctions a potentially highly valuable tool.

This potential, as well as the gaps, are recognized within the EU. The bloc appears set to continue increasing its interest in and use of sanctions to address organized crime through autonomous designations. The implementation of the Global Human Rights Sanctions Regime, and the likely incorporation of an anti-corruption component within it, promise to expand EU conceptual and practical approaches and to address the process gaps.

Post-Brexit UK sanctions development

The final example of the use of sanctions to address criminal actors is the United Kingdom. Prior to its departure from the EU in 2020, the UK was a key actor within the EU restrictive-measure system, both through the submission of designation packages under various regimes and, at a more technical level, the provision of seconded personnel.[246] Its departure had a noticeable impact on the overall process. 'Brexit was a huge disservice,' explained one European official. 'The UK has an army of lawyers who are specific and precise [on sanctions]; when the UK provided information, it was of a very high standard.'[247]

Brexit had an equally disruptive impact on the UK's deployment of sanctions, necessitating the development of new legal authorities and regimes and leading to a broader degradation in impact, with its unilateral sanctions perceived to pack less heft than those levied by the EU as a 27-member bloc.[248]

The exit from the EU also forced the UK to review, and to a degree rethink, its use of sanctions as a policy instrument. Through various parliamentary inquiries and government reports, the uses of UK sanctions policy slowly emerged, focused on both the targeting of state and non-state security threats and upholding key international norms, including human rights and good governance.[249]

Within this broader push for sanctions policy development, organized crime was an emerging pole of focus, pushed both by parliamentarians and civil society actors.[250] This heightened consideration was partly linked to a redefinition of organized crime and corruption as threats to national security rather than strictly to criminal justice, similar to the conceptual approach taken by the US.[251]

The initial steps in the UK's development of unilateral criminal-focused sanctions involved the development of underlying legislation for the broader sanctions programme. Enacted in 2018, the Sanctions and Anti-Money Laundering Act (SAMLA) enabled the UK to effectively port existing EU sanctions regimes into domestic legislation and also established the legal parameters for the UK to develop and implement its own sanctions regimes. SAMLA allowed for the imposition of a number of targeted sanctions, including financial, trade, visa bans and measures targeting aircraft and shipping.[252]

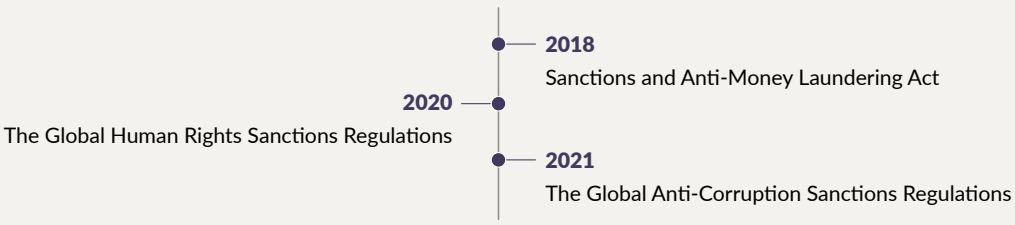


FIGURE 9 Select UK legislation and programmes salient to sanctions and organized crime.

Designation criteria, Global Anti-Corruption Sanctions Regulations 2021

6(2) In this regulation an 'involved person' means a person who—
(a) is or has been involved in serious corruption,
(b) is owned or controlled directly or indirectly (within the meaning of regulation 7) by a person who is or has been so involved,
(c) is acting on behalf of or at the direction of a person who is or has been so involved, or
(d) is a member of, or associated with, a person who is or has been so involved.

(3) In this regulation a person is involved in serious corruption if—
(a) the person is responsible for or engages in serious corruption;
(b) the person facilitates or provides support for serious corruption;
(c) the person profits financially or obtains any other benefit from serious corruption;
(d) the person conceals or disguises, or facilitates the concealment or disguise of—
a. serious corruption, or
b. any profit or proceeds from serious corruption;
(e) the person transfers or converts, or facilitates the transfer or conversion of, any profit or proceeds from serious corruption;
(f) the person is responsible for the investigation or prosecution of serious corruption and intentionally or recklessly fails to fulfil that responsibility, or
(g) the person uses threats, intimidation or physical force to interfere in, or otherwise interferes in, any law enforcement or judicial process in connection with serious corruption

With SAMLA in place, the UK moved to incorporate more than 30 existing EU sanctions regimes and 1 000 designations attached to them, including some that focused on criminal actors in countries such as the DRC and Libya, as well as one focused on cybercriminality.[253] These regimes and designations took effect at the end of the Brexit transition period on 31 December 2020.

Also under SAMLA, the UK moved to develop two new regimes salient to organized crime. The first, the Global Human Rights Sanctions Regulations, known colloquially as the UK's Magnitsky Act, came into force in July 2020. It allows for targeted financial and visa sanctions to be levied for serious violations of three forms of human rights, including the rights to be free from slavery, servitude, and forced and compulsory labour.[254]

The regulations allow for the sanctioning of non-state actors, with the Foreign, Commonwealth and Development Office (FCDO) emphasizing, in its policy paper on designations, that it was likely to give particular attention to such targets.[255] In practice, at the time of writing, most designations have been focused on state actors, and non-state targets have tended to link to officials. [256]

The second salient law under SAMLA was the Global Anti-Corruption Sanctions Regulations, enacted in April 2021.[257] As with organized crime, the British government had previously, in 2017, defined corruption as a national security threat, rather than just a normative breach.[258] The designation criteria under the regulation include individuals accused of serious corruption, defined as either bribery or misappropriation of property, and also those who facilitate and profit from serious corruption, as well as any actors impeding investigations into corruption or failing in their duties to investigate such activity.[259]

This new legislative framework was accompanied by a new set of processes for sanctions development and implementation. Responsibility for sanctions within the UK system is not unified, with several ministries directly involved. The FCDO is responsible for both the development of designations and broader sanctions policy. A centralized sanctions unit has been built up as the hub for UK sanctioning activity, with additional support on designation and strategy issues provided by country desks and embassy personnel.[260]

The FCDO draws evidentiary information for designations both from open sources and from data developed by UK law enforcement or intelligence agencies. It has adopted approaches used in the US and, to a lesser degree, the EU for engaging with civil society on the identification of sanctions targets and the collection of relevant evidence.[261] This has triggered a significant

growth in civil society's engagement and sharing of evidence with the FCDO on sanctions.

Once a designation package has been developed, it is discussed within an interagency process involving relevant government departments. At this point, the designation is also assessed from a legal perspective to ensure that the material presented in the package meets the necessary evidentiary threshold. The evidentiary standard within the UK system is 'reasonable grounds to suspect'.[262] The government legal team makes the preliminary decision on whether the 'reasonable grounds' threshold has been met for each proposed designation.[263] The minister identified in the relevant regime (e.g. for the Global Human Rights Sanctions Regulations, the secretary of state) may then designate, provided that they agree that the evidentiary threshold and designation criteria have been met.[264]

The UK designation process can be expedited when an individual or entity under consideration has already been designated by key allied jurisdictions (including the US, the EU, Canada and Australia) and other conditions for application of the 'urgent procedure' are met.[265] In this context, evidentiary requirements are, in practice, substantially lower.

FIGURE 10 Number of individuals and entities designated by programme

NOTE: Accurate as of June 2023.
SOURCE: Castellum.ai

Once a designation decision has been made, information on the individual or entity is entered into the UK Sanctions List, which is run by the FCDO.[266] The Office also reportedly sends information to listees on their designation, although dispatch of such information is, according to a UK lawyer, often 'very slow'.[267]

Implementation of sanctions involves a range of ministries. The two most important for targeted measures against organized crime are the Home Office and the Treasury. The Home Office is responsible for visa sanctions, with powers afforded to it by the 1971 Immigration Act.[268] The Treasury's sanctions unit is the Office of Financial Sanctions Implementation (OFSI), which is tasked with implementing targeted financial sanctions, overseeing adherence to them and ensuring that private sector financial institutions are aware of their roles and responsibilities.[269] OFSI maintains its own consolidated list of financial sanctions, detailing all 'designated persons' (including individuals, entities and craft) whose assets have been targeted. Reportedly, there is substantial cooperation and engagement between the various ministries involved in sanctions, although it remains a far more atomized approach than the national system in the US.[270]

Finally, a functional – although lengthy – de-listing process has been established in the UK system. Generally, there are two levels. The first involves a formal request by a designated individual for the listing to be revoked, based on claims of mistaken targeting, incorrect information leading to designation or the severe impacts of designation.[271]

If that request is denied, a second process kicks in, which allows designated actors to seek judicial review of their designation. Such a review includes specific provisions

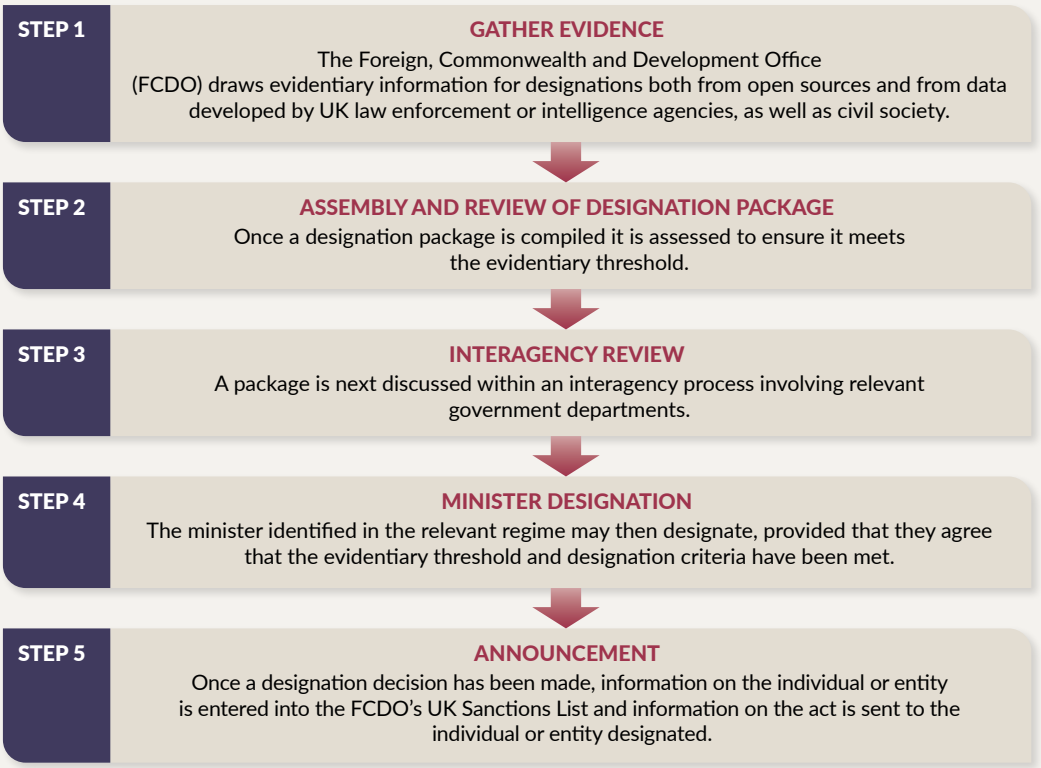


FIGURE 11 Process of UK designation development.

– such as closed procedures – to enable the court to review sensitive materials.[272] This precludes some of the reticence seen in the EU concerning the use of non-open-source information in designations.

Overall, the UK has developed a substantial legal and procedural system for the employment of sanctions. In many ways, the regimes operate in parallel to those employed by the EU, reflecting the close historic linkages between the two systems. Yet, in some areas, the UK has begun to diverge from the EU, notably with anti-corruption sanctions. This reflects, in part, the speed with which the UK can develop new regimes, in contrast to the EU's slow pace. This relative swiftness also benefits the EU, however, with the UK anti-corruption regime offering a practical model within a similar system that can inform the EU's ongoing debates about the development of anti-corruption designation criteria.

The UK has also been explicit in its aim to include sanctions in a broader toolkit to address national security and foreign policy concerns, rather than using them as a stand-alone tool.[273] Further, it has tried to coordinate activity with like-minded jurisdictions, including the US, Canada and the EU, including through the issuance of simultaneous designations.[274]

Nonetheless, the UK has been slow to exploit its rhetoric and development of sanctioning regimes and systems with their actual employment against organized crime. The bulk of the UK's sanctioning since Brexit has been focused on Russia, particularly since Russia's invasion of Ukraine. Triggering an avalanche of sanctions, some focusing on alleged 'corrupt elites' and 'dirty money' being laundered through the UK,[275] the

A Union flag flies in front of the Big Ben on 1 January 2021, the first day of the UK's future outside the EU. The UK's sanctions system has substantial latent potential to counter organized crime.
© Leon Neal/Getty Images

invasion initiated a large-scale expansion of the sanctions unit and marked a turning point in the UK's use of sanctions as a foreign policy tool. Policy statements have repeatedly underscored the centrality of sanctions as a tool of 'economic statecraft'.[276] While increased expenditure on sanctions processes may strengthen their application across a wider range of targets in the long run, statements issued in 2022 and 2023 indicate that the political will for leveraging sanctions is almost exclusively concerned with state threats.[277]

Nonetheless, there has been some use of sanctions to address organized crime, including the targeting of cybercriminals, corrupt actors linked to drug trafficking and corruption writ large, although issuance of such designations has not been consistent.[278] Most non-Russia sanctions under the corruption regime, for example, were concentrated in the first half of 2021, and a stagnation after the change of foreign secretary in February 2022 underscores the highly political nature of the sanctioning process.[279] The pace of UK sanctions on corrupt or criminal actors appears to have picked up pace in 2023. During the first quarter, the UK issued a number of designations on Syrian and Lebanese actors allegedly linked to drug trafficking, as well as Bulgarian political actors and businesspeople on corruption grounds.[280]

The UK's overall approach has been critiqued as lacking 'a strategic approach to dismantling corrupt networks' by Redress, a UK civil society organization that plays a significant role in coordinating civil society engagement with the FCDO on sanctions.[281]

Much like the EU, the UK's sanctions system has substantial latent potential to counter organized crime. Its potential for tackling corruption is also high, given the importance of the UK financial system (and those of the UK Overseas Territories and Crown Dependencies that fall under SAMLA) to global finance and the movement of money.[282] Nonetheless, approaches remain preliminary, with salient regimes on cybercriminality, human rights and corruption recording only limited use on actors not linked to Russia. While much of this relates to the Russia–Ukraine conflict, it nonetheless points to the current existence of capacity and political limits in UK sanctions usage.

CONCLUSION

The EU Commissioner for Justice Didier Reynders speaks on new EU rules on freezing and confiscating assets of oligarchs violating restrictive measures and of criminals at the EU headquarters in Brussels, May 2022.

Since 1995, when the first crime-focused sanctions regime was established by the US, there has been an increase in the use of sanctions as a tool for addressing organized crime actors involved in a range of different illicit economies, including drug trafficking, human smuggling and trafficking and illicit natural-resource extraction. Such rising use is most pronounced in the US, which has far and away sanctioned the greatest number of criminal actors. However, the trend has also been seen in other states and multilateral forums, mainly the UN, EU and UK. Rather than expressing a new normative approach, however, the trend is linked to the convergence of often separate focuses on the assessment of organized crime.

First, the framing of serious organized crime has seen a change in some states, as not only a criminal justice issue, but also a threat to national security. This view has a long precedent in the US but is far more recent in other jurisdictions, such as the UK. It can also be seen, to a degree, in the UN's Haiti regime, with the criminal issue framed as the central threat to peace and security in the country.

Second, there has been increasing awareness of the destabilizing impacts of illicit economies. In particular, this issue is seen as an acute challenge to countries in conflict, due to criminal financing of conflict actors or 'spoilers'. As one UN investigator on Libya noted, '[Human trafficking is] destabilizing to community stability due to disputes over routes and it empowers actors which threaten the government.'[283] Because of this, involvement in certain illicit economies has increasingly been included in designation criteria under broader country-based regimes issued by the UN, the EU, the US and others, whose overall goals address conflict and political instability (including unconstitutional transitions of power).

Finally, there has been a reassessment of the challenges that organized crime presents to evolving global norms of human rights, the rule of law and anti-corruption. The focus on criminal actors as prominent contraveners of human rights in particular represents a conceptual innovation, as well as an accurate reflection – in many cases – of their negative impact on populations and societies. Paired with the growing body of sanctions regimes globally targeting human rights violators (often including corrupt actors), this innovation in approach has led actors such as the EU, the US, and the UK to designate criminal actors for allegedly contravening human rights norms rather than involvement in organized criminality per se.

As foreign policy tools, sanctions work best when they are employed alongside other diplomatic, law enforcement and development approaches, guided by a centralized strategy against organized crime.

The three dynamics detailed above have, collectively, driven the growing employment of sanctions to counter criminal actors. It is nonetheless important to recognize them as distinct, precisely because it has a bearing on the goals of the sanctioning approaches and the form of impact sought. In practice, however, they are interrelated. For example, while the Libya designations of traffickers use human rights criteria, there were also arguments for peace and security grounds within the Libya sanctions committee.[284] Similarly, within the US system, discussions of the national security utility of a designation can, and often do, draw in both peace-and-security and norm-contravention logic. These dynamics reflect, ultimately, a growing awareness in the international community of the challenges posed by the expansion of organized crime since the 1990s and a willingness to creatively look for tools outside of traditional criminal justice approaches to address challenges and mitigate risk.

Moreover, the US, UN, EU and UK approaches often intersect in practice. This is most obvious with UN regimes, which all member states are obligated to implement. US and EU willingness to 'gold-plate' UN sanctions regimes can also allow the implementation of designations that are politically watered down, blocked or otherwise infeasible at the Security Council.

There has further been a growing convergence in thematic sanctions regimes across different jurisdictions. The most widespread example involves human rights and anti-corruption, where the passage of the US Global Magnitsky Act influenced other jurisdictions, including the EU and the UK, in their development of similar regimes. This, in turn, has enabled international coordination on the development and deployment of specific designations.[285] Interviewees expected that such coordination is likely to deepen, although it could be stymied by jurisdiction-specific laws and rulings for evidentiary admissibility.[286]

Nonetheless, an assessment of current approaches also underscores challenges and gaps that should be addressed to improve impact. Perhaps most important is the frequent confusion about the nature of sanctions in public statements that frequently conflate them with law enforcement and present them as linked to international law. This mis-states their reality. Sanctions regimes, and the designations emanating from them, are foreign policy tools that depend as much on political interest and an assessment of the underlying risk of a designees' conduct as on evidence.[287]

This misconstrual has practical importance. It has fuelled public perceptions that sanctions are criminal justice tools or proxy tools, with aims akin to those embedded within criminal justice systems. It has simultaneously obfuscated the utility of targeted sanctions against criminal actors as a foreign policy tool, and impeded efforts to identify and publicly make the case for what markers of sanctioning success look like.

As foreign policy tools, sanctions work best when they are employed alongside other diplomatic, law enforcement and development approaches, guided by a centralized strategy against organized crime. This should entail buy-in and involvement from a broad range of different government actors in strategy development, ideally coordinated by a focal point tasked with addressing organized crime. Such a broad-tent approach necessarily extends beyond strategy, however, with sanctions designation

decisions involving a range of actors, including those – such as development agencies – less frequently engaged on counter-crime issues.

In practice, the degree to which sanctions are strategically embedded and a broad set of stakeholders are involved in process development differs substantially across the jurisdictions surveyed in this report. Even in the US, which has adopted a more inclusive approach than most, gaps continue to exist. As one former US ambassador said, 'If sanctions are going to be foreign policy tools, they need to involve foreign policy actors. We need to coordinate better.'[288]

The second challenge involves the scope of regimes. Extant regimes are generally either country focused or thematic, with the former predominant in most jurisdictions save for the US. The use of country regimes to target organized crime, however, is out of step with the transnational, highly fluid nature of modern illicit markets. A focus on traffickers and smugglers in a given country in many cases has a displacement effect, driving them into contiguous countries or areas where they may fall outside the parameters of a sanctions regime. The existence of thematic regimes – to the extent appropriately and flexibly defined – can offer a means of more realistically responding to modern organized crime. To date, there are only a limited number of thematic regimes use by jurisdictions outside of the US, nearly all focused on corruption, cybercrime, human rights violations or terrorism.

Typology-focused regimes, like the drugs-focused regimes, are open to criticism, in that they fail to capture the often multi-commodity nature of today's criminal markets and flows. However they nonetheless allow for a more balanced mix of specificity, global applicability and strategic embedding than either country regimes or regimes which attempt to encompass all forms of organized crime within a single definition. Thus creating regimes focused on discrete organized crime typologies – such as human smuggling and trafficking, drug trafficking and natural resource exploitation – offer a potentially important avenue for the evolution of sanctions approaches.

A third challenge is evidentiary development. It can be extremely difficult to develop evidence about criminal actors and, more broadly, those designated due to behaviour rather than affiliation (e.g. with a nation state or terrorist group) that is sufficient to satisfy bureaucratic criteria (in the US), political obstacles (in the UN) or judicial review (in the EU). Such evidentiary challenges are likely only to mount, given the proliferation of regimes across jurisdictions that are focused on corruption and other normative violations.[289]

The US has developed an effective approach to evidentiary development in some regimes: notably drug trafficking, through close engagement between Treasury and DEA officials. While this arrangement has downsides, such as the risk that domestic prosecutorial interests will influence designations, it nonetheless brings information collection closer to the sanctions development process and arguably quickens the overall timeline. Newer regimes, such as the Global Magnitsky Act, do not benefit from this engagement, and thus place more responsibilities on actors – such as State Department officers – who may or may not have previous experience with sanctions designation development. It also has led to novel engagement with global civil society to effectively

crowdsource information collection, an implicit recognition by the State Department, as a British lawyer flagged, that 'they didn't have the capacity to chase it all.'[290]

The UN too has developed a generally effective, centralized process for autonomous information collection on sanction-regime violators through its panel-of-experts system. There are deficiencies in this approach, due in particular to the short term of mandates and the myriad tasks that panels are often given in addition to investigations, but the approach has largely allowed the UN to avoid depending on member states for designation information.

Such centralized processes notably do not exist in the EU system. While the EEAS can submit designations, in practice these are developed and submitted by member states. This atomized system both limits the volume of designations which can be made and allows large, well-resourced states to dominantly influence the bloc's approaches to designation. Such states are often averse to exposing sensitive intelligence or law enforcement information, fearing that it could be revealed during litigation or otherwise leaked. This, in turn, influences the nature and focus of EU designations, and even the feasibility of developing information on sensitive issues or well-shielded targets or where member-state diplomatic or intelligence presence is limited.

More broadly, there are information sharing gaps between jurisdictions, impeding efforts to coordinate on the designation of criminal actors and networks. In part, such gaps hinge on the sensitivity of sharing law enforcement or intelligence derived information. This underscores a need for expanding the pool of non-sensitive data used in designations, in particular by engaging more proactively with civil society and private sector actors.

A fourth challenge is in decision-making processes. While the US has a number of different departments and agencies with a role in the designation development process, ultimately all of them sit within one branch of one government. Different government bodies have divergent interests, but there is a productive process for appealing to higher officials within Departments or National Security Council level to break any impasses. Although still evolving, the UK system shows a similar, and in some ways even more focused, decision-making process.

In contrast, the UN is innately multilateral, which necessitates consensus among member states with sometimes disparate interests and views. Designations, even when passed, are often a lengthy process. 'You try to go through the UN first on some things, but the UN is going to waste a lot of time,' explained a US official.[291] This has influenced a turn towards a coordinated unilateral sanctions approach by the US, the UK and the EU, among others.[292]

The EU decision-making on sanctions falls between that of the US and UK, on one side, and the UN, on the other. The bloc's approach to sanctions is also inherently multilateral and there is substantial political bargaining during negotiations. However, the bloc's states are more closely aligned in interest than those in the UN, which substantially lessens the degree of obstruction and delay.

Finally, there is a need for heightened focus on exiting sanctions. For those sanctioned, having the designation removed due to errors in targeting or changes in behaviour can often be a highly complex and frequently unsuccessful affair. This weakens delisting as

an incentive to actors to change the activities or conduct which led to their designation in the first place. The focus by jurisdictions on the de-listing side of sanctioning varies widely, though none really do it well. Gaps in de-listing capacity seem to be rooted, in part, in resource constraints and political disinterest. The EU has only a limited structure for de-listing, with most successful challenges to designations coming through judicial review.[293] The US, in contrast, has a relatively well-developed and well-understood structure for de-listing – although its decision-making is slow and opaque.[294] The limited and often complicated protections for designees complicate efforts to use the tools to address organized crime, impact public perceptions and, noted one former US official, 'harm the credibility of the sanctions programme'.[295]

Winding down sanctions regimes is also problematic, with programmes far easier to develop than to end. While the EU reviews its thematic regimes and the designations linked to them on an annual basis, such routine assessments for fit and effect appear to be rarer and less frequently undertaken in the US, UK and UN systems. In the US system in particular, sanctions on criminal actors are viewed as non-controversial programmes which see steady use. [296] 'There are always bureaucratic incentives for expanding programmes, no incentives for reducing or restricting them; that's political as well,' explained a former US official. '[There is] no upside for taking these off the books.'[297]

From regimes focused on countries to those that target criminal actors, sanctions have advanced substantially in concept and in process over the last two decades. It seems likely that the international community will increasingly turn to sanctions as a tool for addressing organized crime activity, given the growing recognition that, more than simply a criminal justice issue, organized crime is now also a national security and economic threat. They may also go further, as recent international discussion of seizing funds frozen by sanctions have underscored.

Because of these trends, identifying both good practices and options for improving the effectiveness of sanctions processes is crucial. The following are recommendations targeted primarily at jurisdictions using sanctions, or considering their use, to improve overall process approaches.

Recommendations

On sanctions regime design and strategic embedding

Deepen the conceptual and strategic definition of organized crime as a stand-alone threat to international peace and security. A concerted effort should be made to develop further international consensus on the challenges posed by organized crime, particularly in multilateral forums like the UN. The central focus on crime in the 2022 Security Council resolution on sanctions in Haiti is a positive step, but it should be a spur for the UN to think more comprehensively on the issue, with an eye towards expanding such framing to other applicable contexts.

Develop thematic regimes on specific organized crime typologies. While laws and executive orders used by the US to target organized crime as a broad category have worked well for them, such an approach may not be the best fit for other countries or

sanctioning jurisdictions. In multilateral situations, the definition of organized crime or the politics around it can be a key sticking point to the development of comprehensive regimes. For this reason, focus should be placed on developing thematic regimes focused on specific organized crime typologies – such as human trafficking, environmental crime or drug trafficking. The UN in particular could be a centrally important entity through which to develop and implement typology-based sanctions initiatives.

Develop multi-country focused regimes targeting organized crime. In addition to country programmes and thematic programmes, consideration should be given to developing regimes on organized crime that cover multiple countries.[298] Modern organized crime is often has a transnational dimension, with organizations present in and dependent on operations in a number of different countries, which are frequently, though not always, contiguous. Further, heightened enforcement in a single country can have a displacement effect, driving criminal organizations to grow operations in neighbouring jurisdictions. Multi-country sanctions regimes would reflect this, allowing for greater geographic applicability than country programmes and more contextually specific designation criteria and strategic embedding than global thematic programmes.

Provide confiscated assets to countries impacted by transnational organized crime. Asset confiscation has increasingly come to the fore in the context of the Russia–Ukraine conflict, with proposals to seize sanctioned assets and provide the funds to Ukraine for the purposes of rebuilding. It seems likely that, if implemented, such initiatives could ultimately be extended to other types of foreign policy challenges, including transnational organized crime. The GI-TOC takes no position on the broader merits of such proposals. However, if undertaken, assets confiscated from criminal actors, whether through post-conviction confiscation, non-conviction-based confiscation or voluntary forfeiture, should not stay with the confiscating government, as is the current norm. Rather confiscated assets should be channelled into supportive programmes in the countries where such actors primarily operate and where the harms of their criminal operations are concentrated, assessed in line with set harm-based criteria. Programmes could include support for law enforcement, anti-corruption, regulatory and other development initiatives. This would provide tangible benefits both for governments impacted by transnational organized crime and for their populations, potentially blunting claims that sanctions and confiscations are a foreign imposition. Such approaches –and seized asset programmes more broadly – would need to be very clearly and carefully constructed and regulated, as poorly set up or non-transparent systems could cause substantial problems for the seizing jurisdictions' interests.

Ensure that sanctions regimes are designed to contribute to broader strategies against criminal actors. Sanctions tools work best as part of a multi-toolkit approach – including prosecutorial approaches, criminal justice capacity-building and/or development aid to communities at risk of criminal infiltration – guided by a well-developed centralized strategy. The embedding of sanctions approaches within a broader strategy is crucial for limiting unintended consequences on other policy initiatives or programmes and to ensure that bureaucratic rivalries or strategic disagreements are confronted head-on. In some cases, there may be a need to balance equities or decide between competing priorities. Such a strategy would, at a minimum, need to identify sanction objectives, detail potential consequences and develop a deconfliction process for outcomes when tools clash.

Establish an organized crime focal point to coordinate strategy and policy. In order to better manage anti-crime initiatives, jurisdictions should establish a single focal point, such as a senior official, vested with authority over the funding and coordination of counter-transnational organized crime programming.[299] Such a focal point could help ensure that the policy responses to organized crime, including sanctions, operate in a mutually reinforcing way. The 'drug czar' or 'anti-slavery czar' positions, such as exist in the US or the UK, offer a potential model. An organized crime focal point should be designed to align with and possibly replace such thematic leads, with the role necessarily expanding to involve authorities encompassing a range of organized crime typologies.

Expand and retain institutional knowledge on sanctions and organized crime within sanctions units. Sanctions regimes require reliable and sustained staffing, support from investigative agencies and units (e.g. law enforcement, intelligence or panel-of-experts bodies) and risk assessments from a range of agencies. States imposing sanctions should commit to allocating personnel to support a regime for its anticipated duration and incentivize the development of staff capacity with specific training on the use of sanctions to target organized crime. Within the UN system, expanding the one-year mandate of most current panels of experts to a multi-year service should be considered.

Build broader institutional knowledge on sanctions and organized crime within government agencies. Given the importance of both embedding sanctions in interagency processes and involving atypical players in designations, broader government or institutional knowledge on sanctions issues should be developed. Accordingly, stakeholders throughout the foreign policy and law enforcement apparatuses should be more systematically trained in sanctions policy and practice, including their utility and limitations, designation processes, their potential impact on their operations and the options available to mitigate identified risks.

On the process of designation development

Promote and formalize information sharing between different jurisdictions. Information sharing is a key challenge to building multinational coordination and support on the designation of specific criminal actors and networks. The use of sensitive information from law enforcement or intelligence sources can limit the feasibility of sharing it between jurisdictions or, in the case of the EU, within them. Even when sharing occurs, such as between UN panels of experts and various national sanctioning authorities, the process is often ad hoc and relationship-driven. To address this challenge, several avenues exist. First, promote the use of shareable open-source information sources – including the development of research capacity tailored to understand and develop information on the political economy of various organized crime typologies. The EU in particular would benefit from developing consolidated collection and analysis capacity, as well as coordinating with and building the capacity of civil society to aid in data collection to support internal frameworks. Secondly, standardize the information necessary for designations across jurisdictions to the greatest degree possible. Thirdly, formalize processes for information sharing between jurisdictions, including between nation states and multilateral institutions. Finally, normalize and devolve information-sharing practices between jurisdictions to the lowest administrative level feasible.

Expand and simplify processes for civil society actors to provide designation information. Over the last decade, the jurisdictions profiled in this report have expanded their engagement with civil society actors in order to receive information salient to designations, particularly within human rights or anti-corruption regimes. However, there is substantial variation across jurisdictions in the official prioritization of such engagements and the ease with which information can be submitted. While the currently uni-directional flow of information into governments is unlikely to materially change, official efforts should be heightened to enable civil society to play a stronger and more effective role in sanctions issues over time. This should include expanding the types of regimes where such engagement is used, simplifying processes for information submission, engaging in post-designation consultations and, crucially, providing feedback on how approaches to data collection can be better suited to government needs.

Build engagement with the private sector to incentivize voluntary information sharing salient to criminal designations. Although the private sector has historically been involved with the implementation of financial sanctions, it could become a potent source of information on corrupt and criminal activities. The multilateral and state convergence towards sanctioning such activities is occurring alongside a growing concern among investors, asset managers and companies about their exposure to and ability to mitigate these risks. Support to sanctions authorities, particularly on designation development, could be an avenue for the private sector to shape the overall risk of organized crime or corruption in a given environment. Information sharing would likely relate predominantly to actors outside companies' client base (within which client confidentiality requirements may pose obstacles to information sharing). Processes developed for receiving information from civil society could be adapted for the private sector. Jurisdictions should seek to build private sector interest in and willingness to use such processes and engage more broadly. To put such mechanisms into practice would require support in navigating the applicable regulatory frameworks, joint analysis of how additional information sharing could sit alongside companies' existing 'suspicious activity' reports, and targeted engagement with compliance focal points in governments' regulatory bodies.

Include a broad range of government stakeholders in sanctions designation decisions.[300] This should explicitly focus on and draw input from diplomatic missions and other field-deployed staff. Such a 'big tent' approach will require more robust planning on process, longer timelines for the designation process and heightened resourcing and training of staff from ministries which have previously been less consulted. A deliberative, inclusive and coordinated policy process can help to assess the broader implications of a sanctions designation in a given context. Such assessments could include the impact of the sanctions decisions on other foreign policy priorities, the buy-in on sanctions as part of a coordinated strategy, space for analysis of whether and how other foreign policy tools should be adjusted to complement or increase the impact of sanctions, and strategic assessments around enforcement issues.

Increase transparency on designation processes. All the jurisdictions studied in this report had designation development processes that were highly opaque, with limited public information on how decisions are made, the criteria used, and to what ends. While some degree of secrecy is understandable, unnecessary opacity of the broad contours can influence public perceptions of sanctions, particularly in the home countries of designees, risking accusations of arbitrariness, inconstancy and politicization.[301]

Such negative perceptions can impact the feasibility of local sanctions enforcement and, moreover, broader foreign policy interests. As many aspects of the designation decision-making process as possible should be clearly outlined and explained to the global public on a routine basis. Periodic public oversight of the regimes would further advance transparency.

On post-designation activities

Proactively develop plans for engaging private sector entities, especially major banks, and foreign government agencies that oversee their operations. Private sector engagement and outreach are key to the successful implementation of financial sanctions on organized crime actors. Forging such partnerships, especially with private sector actors in remote or fragile states, can be difficult even where there is host country buy-in. It is harder when the companies or governments involved are sceptical of the strategy or believe that compliance or participation is against their interests. For these reasons, such engagement should not wait until the post-designation phase but should begin well in advance. Sanctioning jurisdictions should strategically map out and build engagement with pertinent private sector actors in countries where transnational organized crime actors are likely to be designated. A similar strategy should occur with government actors salient to enforcement, with proactive assessments and plans developed around law enforcement and regulatory capacity development, ideally as part of a broader counter-transnational organized crime strategy.

Invest in the de-listing process. The prioritization of de-listing varies widely across the jurisdictions covered in this report, which is problematic in terms of both public perception and due process. Further, it operates as an obstacle to sanctions driving towards the 'behavioural change' of sanctioned entities. The issue assumes heightened relevance given the growing use of targeted sanctions broadly and the specific rise in the designation of transnational organized crime actors. States that use sanctions to counter transnational organized crime should prioritize the strengthening of their de-designation systems, adequately staff and fund them and make the de-listing criteria and processes transparent. The UN should explore expanding the de-listing ombudsperson's mandate to cover sanctions regimes other than the ISIL (Da'esh) and al-Qaeda regime. Where de-listings do occur, these should be publicized in the same way as designations.

NOTES

1 See, for example, Global Initiative Against Transnational Organized Crime (GI-TOC), The global illicit economy: Trajectories of transnational organized crime, March 2021, https://globalinitiative.net/analysis/global-organized-crime/; Robert Mandel, *Dark Logic: Transnational Criminal Tactics and Global Security*. Stanford: Stanford University Press, 2011; Moisés Naím, *Illicit: How Smugglers, Traffickers, and Copycats are Hijacking the Global Economy*. London: Arrow, 2007; Caroline Nordstrom, *Global Outlaws: Crime, Money, and Power in the Contemporary World*. Berkeley: University of California Press, 2007; Peter Andreas, Illicit international political economy: The clandestine side of globalization, *Review of International Political Economy*, 11, 3 (August 2004), 641–652.

2 GI-TOC, The global illicit economy: Trajectories of transnational organized crime, March 2021, https://globalinitiative.net/analysis/global-organized-crime/; UN Office of Drugs and Crime, Estimating illicit financial flows resulting from drug trafficking and other transnational organized crimes, 2011, https://www.unodc.org/documents/data-and-analysis/Studies/Illicit_financial_flows_2011_web.pdf.

3 GI-TOC, 2021 Global Organized Crime Index, https://globalinitiative.net/initiatives/ocindex/.

4 Summer Walker and Mariana Botero Restrepo, Illicit economies and armed conflict: Ten dynamics that drive instability, GI-TOC, January 2022, https://globalinitiative.net/analysis/illicit-economies-armed-conflict/; Julia Stanyard, Alastair Nelson, Greg Ardé and Julian Rademeyer, Insurgency, illicit markets and corruption: The Cabo Delgado conflict and its regional implications, GI-TOC, February 2022, https://globalinitiative.net/analysis/mozambique-cabo-delgado-conflict/; Eleanor Beevor, JNIM in Burkina Faso: A strategic criminal actor, GI-TOC, August 2022, https://globalinitiative.net/analysis/jnim-burkina-faso/; Tom Westcot, Destruction or theft? Islamic State, Iraqi antiquities and organized crime, GI-TOC, March 2020, https://globalinitiative.net/analysis/jnim-burkina-faso/.

5 Summer Walker, Gangs of Haiti: Expansion, power and an escalating crisis, GI-TOC, October 2022, https://globalinitiative.net/analysis/haiti-gangs-organized-crime/; Matt Herbert, From contraband to conflict: Links between smuggling and violence in the borderlands of Meso-America and North Africa, unpublished PhD dissertation, Tufts University, 2019.

6 Matt Herbert, Tuesday Reitano and Siria Gastelum Felix, Communities and crime wars, in Max Gallien and Florian Weigand (eds), *The Routledge Handbook of Smuggling*. London: Routledge, 2021, 431–443.

7 GI-TOC, The global illicit economy: Trajectories of transnational organized crime, March 2021, https://globalinitiative.net/analysis/global-organized-crime/.

8 Ian Tennant, The promise of Palermo: A political history of the UN Convention against Transnational Organized Crime, GI-TOC, October 2020, https://globalinitiative.net/analysis/the-promise-of-palermo-untoc/.

9 Yvon Dandurand and Jessica Jahn, The future of international cooperation against transnational organized crime: The undoing of UNTOC? GI-TOC, October 2021, https://globalinitiative.net/analysis/international-cooperation-organized-crime/.

10 Interview with US official 4, July 2021.

11 Richard Nephew, *The Art of Sanctions: A View from the Field*. New York: Columbia University Press, 2017.

12 See, for example, Peter Andreas, Criminalizing consequences of sanctions: Embargo busting and its legacy, *International Studies Quarterly*, 49, 2 (2005), 335–360; Center for the Study of Democracy, *Corruption, Contraband and Organized Crime in Southeast Europe*, https://csd.bg/publications/publication/corruption-contraband-and-organized-crime-in-southeast-europe/; Matt Herbert, Partisans, profiteers, and criminals: Syria's illicit economy, *Fletcher Forum of World Affairs*, 38, 1 (Winter 2014), 69–86.

13 The chapter on the US is longer than those assessing other jurisdictions. This reflects the substantially larger number of sanctions programmes targeting organized crime run by the US, the far higher number of designations it has issued and the length of its experience in doing so, predating other jurisdictions by 10 to 15 years or more. It should not be taken as an endorsement of or preference for US sanctions approaches over those of other jurisdictions.

14 Nicholas Mulder, *The Economic Weapon: The Rise of Sanctions as a Tool of Modern War*. London: Yale University Press, 2022; Central Intelligence Agency, Economic sanctions: An historical and conceptual analysis, Memorandum, issued 1 October 1982, declassified 12 September 2012.

15 Daniel Drezner, The United States of sanctions: The use and abuse of economic coercion, Foreign Affairs, 24 August, https://www.foreignaffairs.com/articles/united-states/2021-08-24/united-states-sanctions.

16 Richard Nephew, *The Art of Sanctions: A View from the Field*. New York: Columbia University Press, 2017.

17 Jahangir Amuzegar, Adjusting to sanctions, Foreign Affairs, 1 May 1997, https://www.foreignaffairs.com/articles/

iran/1997-05-01/adjusting-sanctions; Daniel W Drezner, How not to sanction, *International Affairs*, 98, 5 (2022), 1533–1552; Richard N Haass, Sanctioning madness, Foreign Affairs, 1 November 1997, https://www.foreignaffairs.com/united-states/sanctioning-madness.

18 Sue Eckert, Thomas Biersteker and Marcos Tourinho, Introduction, in Thomas Biersteker, Sue Eckert and Marcos Tourinho (eds), *Targeted Sanctions: The Impact and Effectiveness of UN Action*. New York: Cambridge University Press, 2016; Jean-Marc F Blanchard and Norrin M Ripsman, Asking the right question: When do economic sanctions work best? *Security Studies*, 9, 1–2 (1999), 219–253; Richard Nephew, *The Art of Sanctions: A View from the Field*. New York: Columbia University Press, 2017.

19 Clara Portela, EU horizontal sanctions and the courts: Questions of interface, in Sascha Lohmann and Judith Vorrath (eds.), International sanctions: Improving implementation through better interface management, Stiftung Wissenschaft und Politik, August 2021, https://www.swp-berlin.org/en/publication/international-sanctions-improving-implementation-through-better-interface-management.

20 See, for example, US Department of State, Executive Order (EO) 12938: Proliferation of weapons of mass destruction, 14 November 1994 and EO 12947: Prohibiting transactions with terrorists who threaten to disrupt the Middle East Peace Process, 23 January 1995; United Nations Security Council Resolution (UNSCR) 1333, 19 December 2000; US Department of Treasury, Testimony of R Richard Newcomb, director, Office of Foreign Assets Control, US Department of the Treasury before the House Financial Services Subcommittee on Oversight and Investigations, June 16, 2004; Clara Portela, EU horizontal sanctions and the courts: Questions of interface, in Sascha Lohmann and Judith Vorrath (eds.), International sanctions: Improving implementation through better interface management, Stiftung Wissenschaft und Politik, August 2021, https://www.swp-berlin.org/en/publication/international-sanctions-improving-implementation-through-better-interface-management.

21 William F Wechsler, Follow the money, Foreign Affairs, 1 July 2001, https://www.foreignaffairs.com/articles/bermuda/2001-07-01/follow-money.

22 Juan Zarate, *Treasury's War: The Unleashing of a New Era of Financial Warfare*. New York: Public Affairs, 2013; Rachel Barnes, Paul Feldberg and Nicholas Turner, Introduction, in Rachel Barnes et al (eds), *Global Investigations Review: The Guide to Sanctions*. London: Law Business Research, 2020.

23 Interview with US official 4, July 2021.

24 The White House, National Security Decision Directive (NSDD) 221: Narcotics and national security, issued 6 April 1986, declassified 10 July 2011.

25 The White House, NSDD 221: Narcotics and national security, issued 6 April 1986, declassified 10 July 2011; The White House, National Security Directive 18: Counternarcotics strategy, issued 21 August 1989, declassified 23 August 2001; The White House, National Security Strategy of the United States, March 1990.

26 The White House, Presidential Decision Directive/NSC-14: U.S. Policy on International Counternarcotics in the Western Hemisphere, issued 3 November 1993, declassified 23 October 2012.

27 Interview with former US ambassador 3, February 2023.

28 This order invoked the International Emergency Economic Powers Act, which granted authority to the Executive to address 'unusual and extraordinary' threats to the US. John Buretta, Megan Lew and Michael Ardeljan, US sanctions, in Rachel Barnes et al (eds), *Global Investigations Review: The Guide to Sanctions*. London: Law Business Research, 2020.

29 The Narcotics Trafficking Sanctions Regulations, which codify EO 12978, describe the prohibition in slightly different language; however, the effect is the same as in the Order. The Regulations provide that, 'Except as authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, no property or interests in property of a specially designated narcotics trafficker that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of US persons, including their overseas branches, may be transferred, paid, exported, withdrawn or otherwise dealt in.' (31 CFR [Code of Federal Regulations] §536.201)

30 The White House, Presidential Decision Directive (PDD) 42: International organized crime, issued 21 October 1995.

31 The White House, EO 12978: Blocking assets and prohibiting transactions with significant narcotics traffickers, FR [Federal Register] 60, 205, 24 October 1995; The White House, PDD 42: International organized crime, issued 21 October 1995. See also: The White House, Press briefing by Robert Gelbard, Assistant Secretary of State for International Narcotics Matters; Richard Newcombe, Assistant Secretary of the Treasury [and others], 22 October 1995.

32 US Department of the Treasury, Impact report: Economic sanctions against Colombian drug cartels, March 2007.

33 US Department of Treasury, Testimony of R Richard Newcomb, director, Office of Foreign Assets Control, US Department of the Treasury before the House Financial Services Subcommittee on Oversight and Investigations, June 16, 2004.

34 US Senate Committee on the Judiciary, Testimony of Mr Richard Newcomb, Office of Foreign Asset Control (OFAC), March 13, 2002, Senate.

35 The White House, EO 12978: Blocking assets and prohibiting transactions with significant narcotics traffickers, FR 60, 205, 24 October 1995.

36 US Department of the Treasury, Impact report: Economic sanctions against Colombian drug cartels, OFAC, March 2007.

37 Interview with former US official 3, January 2023; interview with former US official 6, November 2022. See also: US Embassy Colombia, Banco Ganadero executives talk about money laundering and specially designated narcotics traffickers, diplomatic cable issued 26 July 1996, declassified 8 May 2014; US Embassy Colombia, 1998–1999 International Narcotics Control Strategy Report, diplomatic cable issued 21 December 1999, declassified 8 May 2014.

38 US Senate Committee on the Judiciary, Testimony of Mr Richard Newcomb, OFAC, March 13, 2002, Senate.

39 Ibid.

40 Communication from US legal actors, March 2021.

41 Interview with former US official 6, November 2022; Juan Zarate, *Treasury's War: The Unleashing of a New Era of Financial Warfare*. New York: Public Affairs, 2013.

42 Jeffrey A Meyer, Second thoughts on secondary sanctions, *University of Pennsylvania Journal of International Law*, 30, 3, 2009; Daniel Meagher, Caught in the economic crosshairs: Secondary sanctions, blocking regulations, and the American sanctions regime, *Fordham Law Review*, 89, 3, 2020; Cassandra Georgantas et al, Extraterritorial sanctions on trade and investments and European responses, European Union

Directorate General for External Policies of the Union, Policy Department for External Relations, November 2020.

43 US Department of State, Presidential determination under Foreign Narcotics Kingpin Designation Act, diplomatic cable issued 3 June 2008, declassified 13 July 2017.

44 The White House, Fact sheet: Overview of the Foreign Narcotics Kingpin Designation Act, 15 April 2009, https://obamawhitehouse.archives.gov/the-press-office/fact-sheet-overview-foreign-narcotics-kingpin-designation-act.

45 Office of Foreign Asset Control, Sanctions pursuant to the Foreign Narcotics Kingpin Designation Act, Department of the Treasury, updated 13 September 2022.

46 Juan Zarate, *Treasury's War: The Unleashing of a New Era of Financial Warfare*. New York: Public Affairs, 2013.

47 Interview with former US ambassador 3, February 2023.

48 The White House, Strategy to combat transnational organized crime: Addressing converging threats to national security, July 2011.

49 Ibid.

50 The White House, EO 13581: Blocking property of transnational criminal organizations, 76 Fed. Reg. 44757, 24 July 2011.

51 Ibid.

52 Clare Ribando Seelke, Gangs in Central America, Congressional Research Service, 29 August 2016; US Department of the Treasury, Treasury sanctions the Zhao Wei transnational criminal organization, 30 January 2018; Amanda Gore et al, Asian roulette: Criminogenic casinos and illicit trade in environmental commodities in South East Asia, GI-TOC, July 2022, https://globalinitiative.net/analysis/casino-crime-south-east-asia/.

53 The White House, Suspension of entry of aliens subject to United Nations Security Council travel bans and International Emergency Economic Powers Act sanctions, Presidential Proclamation, 25 July 2011.

54 The White House, National Security Strategy, February 2015.

55 The White House, EO 13694: Blocking the property of certain persons engaging in significant malicious cyber-enabled activities, 1 April 2015, 80 FR 18077; and EO 13757: Taking additional steps to address the national emergency with respect to significant malicious cyber-enabled activities, 28 December 2016, DCPD-201600880.

56 This act was passed as part of the US Congress's National Defense Authorization Act for Fiscal Year 2020, 20 December 2019; Josh Katz, Abby Goodnough and Margot Sanger-Katz, In shadow of pandemic, US drug overdose deaths resurge to record, New York Times, 15 July 2020, https://www.nytimes.com/interactive/2020/07/15/upshot/drug-overdose-deaths.html.

57 Office of Foreign Asset Control, Former Liberian Regime of Charles Taylor Sanctions Program, US Department of the Treasury, May 2014, 31 CFR 593.

58 The White House, EO 13536: Blocking property of certain persons contributing to the conflict in Somalia, 12 April 2010, DCPD-201000257.

59 Interview with representative of a European legal NGO, May 2021; The White House, United States strategy on countering corruption pursuant to the National Security Study Memorandum on establishing the fight against corruption as a core United States national security interest, December 2021; US Department of the Treasury, Treasury works with government of Mexico against perpetrators of corruption and their networks, 17 May 2019; US Department of the Treasury, Treasury targets corruption networks linked to transnational organized crime, 8 December 2021.

60 Interview with former US ambassador 3, February 2023; Congressional Research Service, Targeting foreign corruption and human rights violators in FY2019 consolidated appropriations, 25 June 2019, https://www.everycrsreport.com/files/2019-06-25_IF10905_31a797e00e1ab472b86272cb0e 708d333aa5e26c.pdf.

61 Interview with representative of a European legal NGO, May 2021. See also: The White House, United States strategy on countering corruption pursuant to the National Security Study Memorandum on establishing the fight against corruption as a core United States national security interest, December 2021.

62 Interview with former US ambassador 3, February 2023.

63 Ibid.

64 Interview with representative of a US legal NGO, May 2021.

65 Office of Foreign Asset Control, Treasury sanctions Russian proxy Wagner Group as a transnational criminal organization, Department of the Treasury, 26 January 2023.

66 US Treasury, Treasury sanctions notorious Kinahan organized crime group, 11 April 2022; US Treasury, Treasury sanctions internet-based suppliers of illicit fentanyl and other synthetic drugs, 9 November 2022; US State Department, Public designation of former Maltese public officials Konrad Mizzi and Keith Schembri due to involvement in significant corruption, 22 December 2021.

67 The White House, United States strategy on countering corruption pursuant to the National Security Study Memorandum on establishing the fight against corruption as a core United States national security interest, December 2021.

68 Interview with US official 3, June 2021.

69 Interview with former US official 4, January 2023.

70 Interview with former US official 5, January 2023.

71 Interview with US official 3, June 2021; interview with former US official 4, January 2023.

72 Daniel F Runde, Linnea Sandin and Amy Doring, Navigating the United States–Northern Triangle Enhanced Engagement Act, Center for Strategic and International Studies, 10 March 2021, https://www.csis.org/analysis/navigating-united-states-northern-triangle-enhanced-engagement-act.

73 Communication from US legal actors, March 2021.

74 Interview with former US official 4, January 2023.

75 Communication from US legal actors, March 2021.

76 US Department of Treasury, Testimony of R Richard Newcomb, director, Office of Foreign Assets Control, US Department of the Treasury before the House Financial Services Subcommittee on Oversight and Investigations, 16 June 2004; US Department of the Treasury, Statement of J Robert McBrien, associate director for investigations and enforcement, Office of Foreign Assets Control, United States Department of the Treasury, before the United States House of Representatives Committee on Oversight and Government Reform, 9 July 2009.

77 US Department of Treasury, Testimony of R Richard Newcomb, director, Office of Foreign Assets Control, US Department of the Treasury before the House Financial Services Subcommittee on Oversight and Investigations, June 16, 2004; US Department of the Treasury, Statement of J Robert McBrien, associate director for investigations and enforcement, Office of Foreign Assets Control, United States Department of the Treasury, before the United States House of Representatives Committee on Oversight and Government Reform, 9 July 2009.

78 Interview with former US official 6, November 2022.

79 Interview with former US official 6, November 2022.
80 Ibid.; interview with former US official 3, January 2023.
81 Interview with former US official 6, November 2022.
82 Communication from US legal actors, March 2021.
83 Interview with former US official 6, November 2022.
84 Interview with former US official 4, January 2023.
85 Ibid.
86 Interview with former US official 5, January 2023; interview with former US official 4, January 2023.
87 Communication from US legal actors, March 2021.
88 Interview with US official 3, June 2021; interview with former US official 4, January 2023.
89 Interview with former US official 6, November 2022.
90 Interview with former US official 5, January 2023; US Department of the Treasury, Testimony of John E Smith, director of the Office of Foreign Assets Control, US Department of the Treasury, House Committee on Financial Services Subcommittee on Monetary Policy and Trade, 30 November 2017.
91 US Department of the Treasury, Statement of Deputy Assistant Secretary Jennifer Fowler before the House Foreign Affairs Subcommittee on the Western Hemisphere, 23 May 2018, https://home.treasury.gov/news/press-releases/sm0394.
92 US Department of the Treasury, Statement of J Robert McBrien, associate director for investigations and enforcement, Office of Foreign Assets Control, United States Department of the Treasury, before the United States House of Representatives Committee on Oversight and Government Reform, 9 July 2009; US Department of the Treasury, Statement of Deputy Assistant Secretary Jennifer Fowler before the House Foreign Affairs Subcommittee on the Western Hemisphere, 23 May 2018.
93 Interview with UK lawyer 2, June 2021; Communication from US legal actors, March 2021.
94 Interview with representative of a US legal NGO, May 2021.
95 Interview with former US official 6, November 2022.
96 Interview with former US official 7, January 2023.
97 Interview with UK lawyer 2, June 2021.
98 Interview with former US ambassador 1, November 2022; interview with US ambassador 2, December 2022; interview with former US official 4, January 2023.
99 See, for example, Office of National Drug Control Policy, National Southwest Border Counternarcotics Strategy, June 2009, and Caribbean Border Counternarcotics Strategy, 2022.
100 US Department of the Treasury, Impact report: Economic sanctions against Colombian drug cartels, March 2007.
101 Samuel Rubenfeld, US Treasury lifts remaining sanctions on Cali drug cartel, Wall Street Journal, 19 June 2014, https://www.wsj.com/articles/BL-252B-4516.
102 Interview with former US ambassador 3, February 2023.
103 Interview with former US ambassador 1, November 2022.
104 Interview with former US ambassador 1, November 2022.
105 Interview with former US official 4, January 2023.
106 Interview former US ambassador 2, December 2022.
107 Interview with former US official 5, January 2023.
108 John Feeley and James D Nealon, Diplomats frustrated by the DEA's dark side, Univision, 22 November 2022, https://www.univision.com/univision-news/opinion/oped-foreign-policy-and-the-role-of-dea; interview with former US Ambassador 2, December 2022; interview with former US Ambassador 1, November 2022.
109 Interview with former US ambassador 2, December 2022; interview with former US ambassador 1, November 2022
110 Communication, GI-TOC illicit finance expert, February 2023.
111 US Department of the Treasury, The Treasury 2021 sanctions review, October 2021.
112 Interview with former US official 6, November 2022.
113 Slaughter and May, GI-TOC: The UN, EU and UK economic sanctions frameworks and a Libya case study, 30 December 2020.
114 The five permanent members of the Security Council are the United States, the United Kingdom, France, the Russian Federation and the People's Republic of China.
115 Thomas Biersteker, Sue Eckert and Marcos Tourinho (eds), *Targeted Sanctions: The Impact and Effectiveness of UN Action*. New York: Cambridge University Press, 2016.
116 Subsidiary Organs of the United Nations Security Council, United Nations Security Council sanctions regimes: Factsheet, 6 November 2022.
117 Interview with former UN Panel of Experts member 8, November 2022.
118 GI-TOC, 2000–2022: Charting organized crime on the UN Security Council agenda, www.globalinitiative.net/SCResolutions.
119 Summer Walker, Illicit economies and the UN Security Council, GI-TOC, April 2023, https://globalinitiative.net/analysis/illicit-economies-unsc/.
120 Ibid.
121 See: UNSCR 1343, March 2001 and UNSCR 1643, 15 December 2005.
122 UN Security Council, UN sanctions: Natural resources, Research Report No. 4, 20 November 2015.
123 Interview with former UN Panel of Experts member, 6 May 2021.
124 UNSCR 2048, 18 May 2012.
125 UNSCR 1857, 22 December 2008; UNSCR 2048, 18 May 2012; UNSCR 2134, 28 January 2014; UNSCR 2374, 5 September 2017.
126 UNSCR 1844, 20 November 2008.
127 Interview with former UN Panel of Experts member 8, November 2022.
128 See, for example, UNSCR 1493, 28 July 2003.
129 Communication with former UN Panel of Experts member 1, October 2022.
130 UNSCR 2213, 27 March 2015
131 UNSCR 2293, 23 June 2016.
132 UNSCR 2521, 29 May 2020.
133 Interview with former UN Panel of Experts member 6, May 2021.
134 Ibid.
135 UNSCR 2653, 21 October 2022.
136 Interview with former UN Panel of Experts member 3, May 2021.
137 Ibid.
138 Mark Micallef, UN Security Council brings out the big stick in Libya, GI-TOC, 08 July 2018. https://globalinitiative.net/analysis/un-security-council-brings-out-the-big-stick-in-libya/.
139 Interview with European official 1, October 2022.
140 Interview with former UN Panel of Experts member 8, November 2022.
141 Subsidiary Organs of the United Nations Security Council, United Nations Security Council sanctions regimes: Factsheet, 6 November 2022.
142 Interview with former UN Panel of Experts member 8, November 2022.
143 Interview with former UN Panel of Experts Member 2, May 2021; Enrico Carish and Loraine Rickard-Martin, Best practices

guide for chairs and members of United Nations Sanctions Committees, Compliance and Capacity Skills International, December 2020.
144 Enrico Carish and Loraine Rickard-Martin, Best practices guide for chairs and members of United Nations Sanctions Committees, Compliance and Capacity Skills International, December 2020.
145 Ibid.
146 Ibid.
147 Interview with former US official 4, January 2023.
148 Interview with European official 3, October 2022.
149 Interview with European official 1, October 2022.
150 Interview with European official 3, October 2022.
151 Ibid.; interview with former UN Panel of Experts member 6, May 2021.
152 Interview with European official 1, October 2022.
153 United Nations, Key political developments, sanctions offer hope to Haiti's recovery if supported by international community, special representative tells Security Council, 24 January 2023, https://press.un.org/en/2023/sc15181.doc.htm.
154 Interview with former UN Panel of Experts member 4, May 2021; interview with former UN Panel of Experts member 3, May 2021.
155 Adrian Croft, UK blocks move to hit Somali pirates with UN sanctions, Reuters, 9 August 2010, https://www.reuters.com/article/uk-somalia-britain-idUKTRE67840L20100809; Paul Reynolds, UK blocks sanctions against suspected Somali pirates, BBC, 9 August 2010, https://www.bbc.com/news/world-africa-10917961.
156 Interview with former UN Panel of Experts member 3, May 2021.
157 Interview with European official 3, October 2022.
158 Enrico Carish and Loraine Rickard-Martin, Best practices guide for chairs and members of United Nations Sanctions Committees, Compliance and Capacity Skills International, December 2020.
159 Slaughter and May, GI-TOC: The UN, EU and UK economic sanctions frameworks and a Libya case study, 30 December 2020.
160 Ibid.
161 Interview with former UN Panel of Experts member 4, May 2021.
162 Ibid.
163 Interview with former US official 1, May 2021.
164 Interview with European official 3, October 2022.
165 Interview with European official 1, October 2022.
166 Interview with former UN Panel of Experts member 5, May 2021.
167 Interview with former UN Panel of Experts member 6, May 2021.
168 Ibid.
169 Interview with European official 1, October 2022.
170 Communication with former UN Panel of Experts member 3, December 2022.
171 Interview with former UN Panel of Experts member 7, January 2023.
172 Communication with former UN Panel of Experts member 3, June 2023.
173 Kimiko de Freytas-Tamura and Somini Sengupta, For 2 experts killed in Congo, U.N. provided little training and no protection, The New York Times, 20 May 2017, https://www.nytimes.com/2017/05/20/world/africa/congo-zaida-catalan-michael-j-sharp-united-nations-democratic-republic-of-congo.html; Colum Lynch, 'The worst bloody job in the world': UN sanctions inspectors feel unsupported and unsafe, Foreign Policy, 20 October 2021, https://foreignpolicy.com/2021/10/20/sanctions-enforcers-united-nations-panel-experts/.
174 Communication with former UN Panel of Experts member 4, June 2023.
175 Michelle Nichols, 'UN Security Council to vote to end peacekeeping mission in Mali, Reuters, 29 June 2023, https://www.reuters.com/world/africa/un-security-council-vote-end-peacekeeping-mission-mali-2023-06-29; RFI, 'UN peacekeeping mission in DRC is to withdraw 'as quickly as possible,' 9 June 2023, https://www.rfi.fr/en/africa/20230609-un-peacekeeping-mission-in-drc-is-to-withdraw-as-quickly-as-possible
176 United Nations, Compendium of the high-level review of United Nations sanctions, A/69/941–S/2015/432, 12 June 2015; Moncef Kartas, The UN sanctions regime on Libya and sustaining peace: Not so 'smart' after all? in Sascha Lohmann and Judith Vorrath (eds.), International sanctions: Improving implementation through better interface management, Stiftung Wissenschaft und Politik, August 2021, https://www.swp-berlin.org/en/publication/international-sanctions-improving-implementation-through-better-interface-management.
177 Interview with European official 3, October 2022.
178 Interview with former UN Panel of Experts member 6, May 2021.
179 United Kingdom House of Lords, European Union Committee, Brexit: Sanctions policy, 8th Report of Session 2017–19, HL Paper 50, 17 December 2017.
180 Paul James Cardwell and Erica Moret, The EU, sanctions and regional leadership, *European Security*, 32, 1 (2023), 1–21, https://doi.org/10.1080/09662839.2022.2085997.
181 Alexandre Prezanti, Sanctions: A new UK tool against organized crime? GI-TOC, 10 August 2020, https://globalinitiative.net/analysis/sanctions-uk-oc/.
182 Paul James Cardwell and Erica Moret: The EU, sanctions and regional leadership, European Security, 32, 1 (2023), 1–21, https://doi.org/10.1080/09662839.2022.2085997.
183 Genevra Forwood et al, EU restrictive measures, in Rachel Barnes et al (eds), *Global Investigations Review: The Guide to Sanctions*. London: Law Business Research, 2020.
184 Martin Russell, EU sanctions: A key foreign and security policy instrument, European Parliament Research Service, May 2018, https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2018)621870.
185 Ibid.
186 Paul James Cardwell, The legalisation of European Union foreign policy and the use of sanctions, Cambridge Yearbook of European Legal Studies, 17 (2015), 287–310, https://doi.org/10.1017/cel.2015.11. EU Council, Council common position of 27 December 2001 on the application of specific measures to combat terrorism, 27 December 2001.
187 Genevra Forwood et al. EU restrictive measures, in Rachel Barnes et al. (eds), *Global Investigations Review: The Guide to Sanctions*. London: Law Business Research, 2020.
188 Slaughter and May, GI-TOC: The UN, EU and UK economic sanctions frameworks and a Libya case study, 30 December 2020.
189 EU Council, Libya: EU imposes additional sanctions for human rights abuses and arms embargo violations, 21 September 2020, https://www.consilium.europa.eu/en/press/press-releases/2020/09/21/libya-eu-imposes-additional-sanctions-for-human-rights-abuses-and-arms-embargo-violations/.

190 EU Council Decision (CFSP [Common Foreign and Security Policy]) 2022/2377 of 5 December 2022 amending Decision 2010/788/CFSP concerning restrictive measures in view of the situation in the Democratic Republic of the Congo.
191 EU Council, Council Implementing Regulation (EU) 2020/1309, 21 September 2020; Council Implementing Regulation (EU) 2021/1909, 4 November 2021.
192 Iana Dreyer and José Luengo-Cabrera, Introduction, in Iana Dreyer and José Luengo-Cabrera (eds), On target? EU sanctions as security policy tools, EU Institute for Security Studies, 2015, https://www.iss.europa.eu/content/target-eu-sanctions-security-policy-tools.
193 EU Council, Council Implementing Regulation (EU) 2023/844 of 24 April 2023, implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria, 24 April 2023.
194 EU Council, Lebanon: EU adopts a framework for targeted sanctions, 30 July 2021, https://www.consilium.europa.eu/en/press/press-releases/2021/07/30/lebanon-eu-adopts-a-framework-for-targeted-sanctions/.
195 Natalia Drozdiak and Nikos Chrysoloras, UK, Netherlands lead EU push for new cyber sanctions, Bloomberg, 11 October 2018, https://www.bloomberg.com/news/articles/2018-10-11/u-k-netherlands-lead-eu-push-for-new-cyber-sanctions-document; Robin Emmott, Days before election, EU approves new cyber sanctions regime, Reuters, 17 May 2019, https://www.reuters.com/article/us-eu-cyber-idUSKCN1SN1FQ.
196 EU Council, Council Decision (CFSP) 2019/797 of 17 May 2019.
197 Clara Portela, A blacklist is (almost) born: Building a resilient EU human rights sanctions regime, European Union Institute for Security Studies, Brief 5, March 2020, https://www.iss.europa.eu/content/blacklist-almost-born.
198 Ibid; Clara Portela, The EU's new human rights sanctions regime: One year on, The Loop; https://theloop.ecpr.eu/the-eus-new-human-rights-sanctions-regime-one-year-on/.
199 EU Council, Council Decision (CFSP) 2020/1999 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses.
200 EU Council, Human rights violations: EU restrictive measures prolonged for a further year, Press Release, 5 December 2022, https://www.consilium.europa.eu/en/press/press-releases/2022/12/05/human-rights-violations-eu-restrictive-measures-prolonged-for-a-further-year.
201 Interview with representative of a European legal NGO, May 2021.
202 European Commission, 2022 State of the Union address by President von der Leyen, 14 September 2022; interview with European official 6, February 2023.
203 EU Council, Sanctions guidelines: Update 5664/18, 14 May 2018.
204 Ibid.
205 Tom Keatinge et al, Transatlantic (mis)alignment: challenges to US–EU sanctions design and implementation, Royal United Services Institute for Defence and Security Studies, July 2017; Matthew Findlay, Testimony on the legality of EU sanctions before the United Kingdom House of Lords, Select Committee on the European Union, EU Justice Sub-Committee, 11 October 2016.
206 EU Council, Basic principles on the use of restrictive measures (sanctions), 7 June 2004.
207 Interview with European official 4, October 2022; interview with European official 2, August 2022.
208 Interview with representative of a European legal NGO, May 2021.
209 Interview with two UK lawyers, May 2021; interview with representative of a European legal NGO. See also: EU Council, Adoption of a Council decision, last reviewed on 4 April 2022, https://www.consilium.europa.eu/en/policies/sanctions/adoption-review-procedure/.
210 Michael Bishop, Testimony on the legality of EU sanctions before the United Kingdom House of Lords, Select Committee on the European Union, EU Justice Sub-Committee, 11 October 2016.
211 Interview with representative of a European legal NGO, May 2021; interview with two UK lawyers, May 2021.
212 Interview with two UK lawyers, May 2021.
213 United Kingdom House of Lords, European Union Committee, Brexit: Sanctions policy, 8th Report of Session 2017–19, HL Paper 50, 17 December 2017.
214 Interview with European official 4, October 2022.
215 Communication with European official 4, June 2023; EU Council, Sanctions guidelines: Update 5664/18, 14 May 2018; Francesco Giumelli, How EU sanctions work: A new narrative, Chaillot Paper No. 129, EU Institute for Security Studies, May 2013.
216 Communication with European official 4, June 2023.
217 For specifics on the Kadi II case, see: Veronika Fikfak, Kadi and the role of the Court of Justice of the European Union in the international legal order, *Cambridge Yearbook of European Legal Studies*, 15, 2013, 587–617, https://doi.org/10.5235/152888713809813594. Slaughter and May, GI-TOC: The UN, EU and UK economic sanctions frameworks and a Libya case study, 30 December 2020. See also: Kadi II, European Commission and Others v Yassin Abdullah Kadi, Judgment, Case C-584/10 P, Case C-593/10 P, Case C-595/10 P, ILEC 031 (CJEU 2013), 18 July 2013, Court of Justice of the European Union [CJEU.
218 Slaughter and May, GI-TOC: The UN, EU and UK economic sanctions frameworks and a Libya case study, 30 December 2020; EU Council, Sanctions guidelines: Update 5664/18, 14 May 2018.
219 Andrew Murdoch, Testimony on the legality of EU sanctions before the United Kingdom House of Lords, Select Committee on the European Union, EU Justice Sub-Committee, 11 October 2016.
220 Matthew Findlay, Testimony on the legality of EU sanctions before the United Kingdom House of Lords, Select Committee on the European Union, EU Justice Sub-Committee, 11 October 2016.
221 Richard M Nephew, US engagement with the EU, in Sascha Lohmann and Judith Vorrath (eds.), International sanctions: Improving implementation through better interface management, Stiftung Wissenschaft und Politik, August 2021, https://www.swp-berlin.org/en/publication/international-sanctions-improving-implementation-through-better-interface-management.
222 Iana Dreyer and José Luengo-Cabrera, Introduction, in Iana Dreyer and José Luengo-Cabrera (eds), On target? EU sanctions as security policy tools, EU Institute for Security Studies, 2015, https://www.iss.europa.eu/content/target-eu-sanctions-security-policy-tools.
223 Tom Keatinge et al, Transatlantic (mis)alignment: Challenges to US–EU sanctions design and implementation, Royal United Services Institute for Defence and Security Studies, Occasional Paper, July 2017, https://www.rusi.org/explore-our-research/publications/occasional-papers/transatlantic-misalignment-challenges-us-eu-sanctions-design-and-implementation.
224 EU Council, Monitoring and evaluation of restrictive measures (sanctions) in the framework of CFSP: Establishment of a

'sanctions' formation of the Foreign Relations Counsellors Working party (RELEX/Sanctions), 22 January 2004; United Kingdom House of Lords, European Union Committee, Brexit: Sanctions policy, 8th Report of Session 2017–19, HL Paper 50, 17 December 2017.

225 Interview with European official 4, October 2022; United Kingdom House of Lords, European Union Committee, Brexit: Sanctions policy, 8th Report of Session 2017–19, HL Paper 50, 17 December 2017; Francesco Giumelli, How EU sanctions work: A new narrative, Chaillot Paper No. 129, EU Institute for Security Studies, May 2013; EU Council, Sanctions guidelines: Update 5664/18, 14 May 2018.

226 Interview with European official 4, October 2022; EU Council, Sanctions guidelines: Update 5664/18, 14 May 2018.

227 Slaughter and May, GI-TOC: The UN, EU and UK economic sanctions frameworks and a Libya case study, 30 December 2020; EU Council, Sanctions guidelines: Update 5664/18, 14 May 2018.

228 Niklas Helwig and Matti Pesu, EU decision-making on sanctions regimes, in Sharpening EU sanctions policy: Challenges and responses in a geopolitical era, Eds. Niklas Helwig, Juha Jokela, Clara Portela, Finnish Institute of International Affairs, FIIA Report No. 63, May 2020.

229 Ibid.

230 Yuliya Miadzvetskaya, Designing sanctions: Lessons from EU restrictive measures against Belarus, The German Marshall Fund of the United States, June 2022.

231 Paul Williams, Testimony on the legality of EU sanctions before the United Kingdom House of Lords, Select Committee on the European Union, EU Justice Sub-Committee, 11 October 2016; EU Council, Sanctions guidelines: Update 5664/18, 14 May 2018.

232 Interview with European official 2, August 2022.

233 Ibid.

234 Interview with European official 4, October 2022.

235 Ibid.

236 Interview with UK lawyer 2, June 2021.

237 Ibid.; interview with European official 4, October 2022.

238 Paul Williams and Andrew Murdoch, Testimony on the legality of EU sanctions before the United Kingdom House of Lords, Select Committee on the European Union, EU Justice Sub-Committee, 11 October 2016; Clara Portela, A blacklist is (almost) born: Building a resilient EU human rights sanctions regime, European Union Institute for Security Studies, Brief 5, March 2020, https://www.iss.europa.eu/content/blacklist-almost-born.

239 Interview with UK lawyer 2, June 2021.

240 Interview with representative of a European legal NGO, May 2021: interview with two UK lawyers, May 2021.

241 Interview with representative of a European legal NGO, May 2021.

242 Ibid.; interview with European official 2, August 2022.

243 Communication with European official 2, February 2023.

244 Stefan Lehne, Is there hope for EU foreign policy? Carnegie Endowment for International Peace, December 2017, https://carnegieendowment.org/2017/12/05/is-there-hope-for-eu-foreign-policy-pub-74909; Jan Techau, The five structural problems of EU foreign policy, Konrad-Adenauer-Stiftung, 2010, https://www.kas.de/c/document_library/get_file?uuid=d69ffdb0-3aa3-a7b2-2e8d-67bd2f5868a0&groupId=252038.

245 Eero Heinäluoma, Karel Lannoo and Richard Parlour, Anti-money laundering in the EU: Time to get serious, CEPS-ECRI Task Force Report, Centre for European Policy Studies, January 2021, https://www.ecri.eu/publications/policy-briefs/anti-money-laundering-eu-time-get-serious.

246 House of Lords, European Union Committee, The legality of EU sanctions, HL Paper 102, 2 February 2017; House of Lords, European Union Committee, Brexit: Sanctions policy, HL Paper 50, 17 December 2017.

247 Interview with European official 4, October 2022.

248 House of Lords, European Union Committee, Brexit: Sanctions policy, HL Paper 50, 17 December 2017.

249 HM Government, Global Britain in a competitive age: The integrated review of security, defence, development and foreign policy, CP 403, March 2021.

250 House of Commons, Foreign Affairs Committee, Fragmented and incoherent: The UK's sanctions policy, HC 1703, 12 June 2019; Isabella Chase, Emil Dall and Tom Keatinge, Designing sanctions after Brexit: Recommendations on the future of UK sanctions policy, Royal United Services Institute for Defence and Security Studies, September 2019.

251 HM Government, National security strategy and strategic defence and security review 2015: A secure and prosperous United Kingdom, November 2015; HM Government, United Kingdom anti-corruption strategy 2017–2022, 2017; Keith Ditcham, Serious organised crime and Britain's forthcoming integrated review, Royal United Services Institute for Defence and Security Studies, 27 February 2020; Royal United Services Institute for Defence and Security Studies, Assessing the integrated review: Illicit finance, sanctions and organised crime, 22 April 2021, available on YouTube, https://www.youtube.com/watch?v=AX1Gy7Wdzck.

252 Slaughter and May, GI-TOC: The UN, EU and UK economic sanctions frameworks and a Libya case study, 30 December 2020.

253 Office of Financial Sanctions Implementation, Annual review: April 2020–March 2021, HM Treasury; Foreign, Commonwealth and Development Office, Sanctions regulations: Report on annual reviews 2021, 11 January 2022; The Cyber (Sanctions) (EU Exit) Regulations 2020, No. 957.

254 Alexandre Prezanti, Sanctions: A new UK tool against organized crime? GI-TOC, 10 August 2020, https://globalinitiative.net/analysis/sanctions-uk-oc/.

255 Foreign, Commonwealth and Development Office, Global Human Rights Sanctions: Consideration of designations, Policy paper, 6 July 2020.

256 Redress, Year One in numbers: UK global human rights sanctions, https://redress.org/publication/year-one-in-numbers-uk-global-human-rights-sanctions/. Foreign, Commonwealth and Development Office, The UK sanctions list, accessed 12 November 2022, https://www.gov.uk/government/publications/the-uk-sanctions-list.

257 Global Anti-Corruption Sanctions Regulations 2021, No. 488.

258 HM Government, United Kingdom Anti-Corruption Strategy 2017–2022.

259 Global Anti-Corruption Sanctions Regulations 2021, No. 488.

260 Interview with representatives from UK Legal NGO 1, May 2021.

261 Ibid.

262 Paul Feldberg et al, UK sanctions, in Rachel Barnes, et al (eds), *Global Investigations Review: The Guide to Sanctions (Third edition)*. London: Law Business Research Limited, 2022.

263 Interview with UK official 1, March 2023.

264 See, for example, section 6 of the Global Human Rights Sanctions Regulations 2020.

265 See sections 58 and 59, Economic Crime (Transparency and Enforcement) Act 2022.

266 Office of Financial Sanctions Implementation, UK financial sanctions: General guidance for financial sanctions under the Sanctions and Anti-Money Laundering Act 2018, HM Treasury, August 2022
267 Interview with UK lawyer 2, June 2021.
268 Foreign, Commonwealth and Development Office, Sanctions regulations: Report on annual reviews 2021, 11 January 2022; Office of Financial Sanctions Implementation, UK financial sanctions: General guidance for financial sanctions under the Sanctions and Anti-Money Laundering Act 2018, HM Treasury, August 2022.
269 Office of Financial Sanctions Implementation, UK financial sanctions: General guidance for financial sanctions under the Sanctions and Anti-Money Laundering Act 2018, HM Treasury, August 2022; and Annual review: April 2021–August 2022, HM Treasury.
270 House of Commons, Foreign Affairs Committee, Fragmented and incoherent: The UK's sanctions policy, HC 1703, 12 June 2019.
271 Interview with UK lawyer 3, May 2021; Office of Financial Sanctions Implementation, UK financial sanctions: General guidance for financial sanctions under the Sanctions and Anti-Money Laundering Act 2018, HM Treasury, August 2022.
272 Interview with UK lawyer 3, May 2021.
273 House of Commons, Foreign Affairs Committee, Fragmented and incoherent: The UK's sanctions policy, HC 1703, 12 June 2019; Emil Dall, UK sanctions policy: A progress report, Royal United Services Institute for Defence and Security Studies, 18 February 2021.
274 Foreign, Commonwealth and Development Office, UK cracks down on ransomware actors, 9 February 2023.
275 Gov.UK, UK sanctions following Russia's invasion of Ukraine, accessed 12 November 2022, https://www.gov.uk/government/collections/uk-sanctions-following-russias-invasion-of-ukraine.
276 HM Government, Integrated review refresh 2023: Responding to a more contested and volatile world, March 2023.
277 Ibid.
278 Foreign, Commonwealth and Development Office, UK cracks down on ransomware actors, 9 February 2023; Foreign, Commonwealth and Development Office, UK sanctions Honduran congressman under new global anti-corruption regime, 26 April 2021, https://www.gov.uk/government/news/uk-sanctions-honduran-congressman-under-new-global-anti-corruption-regime.
279 Foreign, Commonwealth and Development Office, The UK sanctions list, accessed 19 June 2023, https://www.gov.uk/government/publications/the-uk-sanctions-list.
280 Foreign, Commonwealth and Development Office, Tackling the illicit drug trade fuelling Assad's war machine, 28 March 2023; Foreign, Commonwealth and Development Office, UK sanctions high-profile Bulgarian figures involved in corruption, 10 February 2023.
281 Redress, UK anti-corruption sanctions: A year in review, 2 May 2022, https://redress.org/news/uk-anti-corruption-sanctions-a-year-in-review/.
282 Philip Loft, The UK's Overseas Territories and sanctions against Russia, research briefing, House of Commons Library, Number 9485, 4 March 2022.
283 Interview with former UN Panel of Experts member 1, May 2021.
284 Interview with European official 3, October 2022.
285 Interview with US official 4, July 2021.
286 Interview with US official 3, July 2021.
287 Interview with European official 1, October 2022; Interview with former US official 9, August 2023.
288 Interview with former US ambassador 1, November 2022.
289 Interview with US official 3, July 2021.
290 Interview with UK lawyers, May 2021.
291 Interview with US officials, February 2022.
292 Interview with US official 4, July 2021.
293 Interview with UK lawyer 3, May 2021.
294 Interview with former US official 6, November 2022.
295 Interview with UK lawyer 3, May 2021; interview with former US official 6, November 2022.
296 Interview with US official 4, July 2021.
297 Interview with former US official 6, November 2022.
298 Interview with former US official 3, January 2023.
299 Interview with former US ambassador 3, February 2023.
300 Interview with former US official 4, January 2023.
301 Interview with Latin America expert 2, December 2022.

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